

# Superior Court of California, County of Butte

## \* RULES OF COURT \*

### FILING INSTRUCTIONS

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**EFFECTIVE DATE: JULY 1, 2003**

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**SUPERIOR COURT OF CALIFORNIA,  
COUNTY OF BUTTE**

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**2003**

**RULES OF COURT**

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THE STATE OF CALIFORNIA  
COUNTY OF BUTTE  
LOCAL RULES OF COURT

**The Superior Court of California, County of Butte has adopted the following Local Rules of Court:**

Local Rule 1	- GENERAL RULES .....	effective July 1, 1990;
Local Rule 2	- LAW AND MOTION MATTERS.....	effective July 1, 1989;
Local Rule 3	- ADMINISTRATION OF CIVIL LITIGATION.....	effective July 1, 1992;
Local Rule 4	- ADMINISTRATION OF CIVIL LITIGATION, LIMITED CASES.....	effective July 1, 1997;
Local Rule 5	- NON-BINDING JUDICIALLY MANDATED MEDIATION.....	effective July 1, 1995;
Local Rule 7	- MANDATORY ARBITRATION .....	effective July 1, 1989;
Local Rule 9	- CUSTODY/VISITATION MEDIATION .....	effective July 1, 1990;
Local Rule 12	- PROBATE RULES .....	effective July 1, 1998;
Local Rule 13	- DOCUMENTS PRESENTED FOR FILING .....	effective July 1, 1989;
Local Rule 14	- FEES FOR COURT APPOINTED ATTORNEYS .....	effective January 1, 1991;
Local Rule 16	- FAMILY LAW .....	effective July 1, 1990;
Local Rule 17	- JUVENILE COURT RULES.....	effective July 1, 1996;
Local Rule 18	- COURT APPOINTED SPECIAL ADVOCATE (CASA).....	effective January 1, 2001;

**ADMINISTRATIVE RULES:**

Local Rule 50	- GENERAL RULES .....	effective July 1, 1996.
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**APPLICABILITY OF RULES.** Pursuant to the passage of Proposition 220 on June 2, 1998 and the unanimous vote to unify by the Butte County Judges, the courts in Butte County are a unified Superior Court. Unless otherwise noted, rules are applicable to all cases including cases of limited jurisdiction.

The Uniform Local Superior Court Rules of the Third Appellate District (Third Appellate District Rules) are no longer in effect in the Butte County Superior Court.

To the extent any previously adopted "policy" of the Butte County Superior Court is in conflict with Butte County Local Rules 1, 2, 3, 4, 5, 7, 9, 12, 13, 14, 16, 17, 18 or 50, the new local rule supersedes the previous policy.

Copies of the Superior Court of California, County of Butte Local Rules of Court and subsequent amendments have been filed with the Judicial Council and the Clerk of the Court in accordance with Government Code Section 68071 and California Rule of Court 981. Copies of the rules and amendments may be purchased from the Clerk of the Court at One Court Street, Oroville, CA 95965.

DATED: May 30, 2003

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SHAROL H. STRICKLAND  
Court Executive Officer

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# BUTTE COUNTY RULES OF COURT

## LOCAL RULE 1

(EFFECTIVE DATE: 1-1-91)

### **RULE 1 - GENERAL RULES**

#### **1.1 - RESERVED**

#### **1.2 - FILING OF MOTIONS IN LIMINE**

Any and all motions in limine in connection with any anticipated civil trial shall be presented for filing at the Trial Readiness Conference.

(A.D. 7-1-2000)

#### **1.3 - SMALL CLAIMS VENUE**

**Small claims cases may be filed at: Butte County Courthouse in Oroville, Chico Courthouse or Paradise Courthouse.**

(E.D. 7-1-2003)

#### **1.4 - RESERVED**

(A.D. 1-1-2000)

#### **1.5 - RESERVED**

(A.D. 1-1-2000)

#### **1.6 - ATTORNEY OF RECORD**

Service on an attorney will not be accepted for filing unless the attorney is of record in the Court's file - either by filing an appearance, a document on behalf of a party, or a notice that [s]he is counsel for a party authorized to accept service.

(A.D. 1-1-2000)

#### **1.7 - COURT REPORTER'S PER DIEM FEE**

The fee paid by the Superior Court of California, County of Butte to pro tempore court reporters hired by the Court for reporting testimony and proceedings shall be periodically reviewed and determined by the Presiding Judge.

(A.D. 1-1-1999)

## 1.8 - REQUESTING A COURT REPORTER

(a) Notice is hereby given that the Superior Court of California, County of Butte only provide a court reporter for those proceedings set forth in GC §70045.8.

(b) In accordance with GC§§68086(a)(1)(A) and CRC 891, notice is hereby given that whenever any party desires to have any proceeding other than those set forth in GC §70045.8 reported, such party shall provide and pay for their own court reporter. Upon order of the Court, Official Court Reporters may be required to report proceedings other than those set forth in GC §70045.8. ***Parties shall contact the Official Supervising Court Reporter at (530) 532-7007 a minimum of 10 days prior to the hearing.***

(c) Pursuant to the provisions of GC §68086(a)(1), in civil cases, a fee “...***equal to the actual cost of providing that service shall be charged per one-half day of services to the parties, on a pro rata basis, for the services of an official reporter on the first and each succeeding judicial day those services are required*** \*\*\*. In Butte County, the one-half (1/2) day fee shall be ***\$138.00 and full day fee shall be \$275.00*** \*\*\*.

(A.D. 7-1-2003)

## 1.9 - TRIAL READINESS

(a) When a case is ready for trial (at-issue), a Memorandum to Set Case for Trial shall be filed in the following cases: Civil Harassment, Extraordinary Writs, Unlawful Detainers, and Asset Forfeiture cases under Health and Safety Code (H&S) §11470.

(b) The Memorandum to Set Case for Trial shall contain the information as set forth in form RUL-1-GR.010.

(A.D. 7-1-2002)

## 1.10 - TELEPHONIC APPEARANCES

(a) Telephonic appearances on Civil Law and Motion, Civil Status Conferences and Probate are allowed pursuant to CRC 298, unless otherwise directed by the Court.

(b) The Court currently utilizes Court Call to arrange telephonic appearances. (Court Call can be contacted at 1-888-882-6878).

(E.D. 7-1-2002)



# BUTTE COUNTY RULES OF COURT

## LOCAL RULE 2

(Effective Date: 7-1-1989)

### RULE 2 LAW AND MOTION MATTERS

#### 2.1 - APPLICABILITY

This Rule 2 applies to all civil law and motion proceedings.

(A.D. 7-1-2002)

#### 2.2 - PAPERS PRESENTED FOR FILING

All documents presented for filing must comply with California Rules of Court (CRC), in particular CRC §§201, 311 through 315, and Local Rule (LR) §13.

**(a) JUDGMENT.** Each judgment or order submitted to the Court shall be self-contained; that is, it may not incorporate by reference any instrument or document that is not made a physical part of the judgment or order itself.

(A.D. 1-1-2003)

#### 2.3 - JUDICIAL NOTICE

**(a) JUDICIAL NOTICE.** Any request for judicial notice shall be made in a separately captioned document, listing the specific items of which notice is requested. Copies of those items shall be attached to the request as exhibits and shall be tabbed, indexed, and paginated. When judicial notice of a Butte County court file is requested, the request shall be filed with the Clerk of the Court no less than seven (7) days before the hearing. The request shall contain the title, case number and jurisdiction of the requested Butte County court file. Where the file sought to be noticed is that of an action outside of Butte County, certified copies of the file's contents will be acceptable in lieu of the original file.

(A.D. 7-1-2002)

#### 2.4 - LATE PAPERS

**LATE PAPERS.** No paper shall be rejected for filing on the ground that it was submitted for filing after the time set forth in this rule. Late filed papers shall be filed by the Clerk and shall be marked conspicuously as "Late Filed Document." The Court may, in its discretion, refuse to consider late filed papers. Where opposition papers are late or entirely omitted, no oral argument by the opposing party will be allowed unless the Court otherwise directs. Relief from the operation of this rule must be sought from the Court by ex parte application or noticed motion and will be granted only upon a showing of good cause. Such relief may also be conditioned upon payment of sanctions for noncompliance.

(A.D. 1-1-2000)



## 2.5 - REPORTING OF PROCEEDINGS

The Court does not regularly provide for reporting or electronic recording of law and motion hearings. A party wishing to obtain a court reporter should contact the supervising court reporter at \*\*\* **(530) 532-7007** at least ten [10] days before the hearing, or make arrangements with a private court reporter prior to the hearing.

(A.D. 7-1-2003)

## 2.6 - RESERVED

(A.D. 1-1-2000)

## 2.7 - TIME OF HEARING

(a) **SCHEDULE.** For both Unlimited and Limited Civil Law and Motion matters \*\*\* contact the Clerk \*\*\* at **(530) 532-7009** \*\*\* for dates and times to schedule hearings.

(b) **RESERVED**

(c) **RESERVED**

(A.D. 7-1-2003)

## 2.8 - CONTINUANCES (civil law & motion only)

(a) **REQUEST TO CONTINUE.** Requests to continue law and motion matters may be made by contacting the Clerk's Office until the close of business the third court day before the hearing date. Such continuances will only be granted where there is an agreement between the parties and authorization by the moving party. After the close of business the third court day before the hearing date, no matter will be continued (*whether by stipulation or otherwise*) without written Order of the Court, and for good cause shown. Counsel are urged to keep the Clerk apprised of any changes in calendared law and motion matters as soon as possible.

(b) **TWO CONTINUANCE LIMIT.** No more than two continuances shall be permitted by stipulation of the parties, absent Court order. It is the policy of the Court to require counsel to remove a matter from the calendar if it is not heard after two continuances have been granted.

(A.D. 7-1-2002)

## 2.9 - TENTATIVE RULINGS

The Court follows the tentative rule procedure set forth in CRC § 324(a)(1): tentative rulings on law and motion matters \*\*\* will be available by telephone at **(530) 532-7002** \*\*\* by 3:00 p.m. on the court day preceding the hearing.

(A.D. 7-1-2003)

## **2.10 - APPLICATION FOR ORDER SHORTENING TIME AND EX PARTE ORDERS**

**(a)** An ex parte declaration shall contain the information as set forth in form RUL-2-LM.010. Such declaration shall be filed and served with the moving papers.

**(b)** All ex parte applications shall comply with CRC §379. Ex parte matters ordinarily are not set for hearing, but are considered on the papers at the Court's earliest convenience, usually the same day they are submitted, or the following day. The moving papers must show that notification has been provided as required by CRC §379. Counsel generally need not appear, but may submit on the papers.

(A.D. 1-1-2000)

## **2.11 - RESERVED**

(A.D. 1-1-2000)

## **2.12 - DEFAULT HEARINGS**

Default prove up hearings are held on the regular law and motion calendar. Prove up hearings may be set by letter request to the clerk at least ten (10) days prior to the date to be set for the prove up. These matters ordinarily are heard on declarations rather than by oral testimony, although witnesses may need to be present in case questions arise. Declarations and any other supporting evidence, and any argument, should be submitted to the Court at least one week prior to the hearing.

(A.D. 7-1-2002)

## **2.13 - MOTIONS FOR SUMMARY JUDGMENT OR SUMMARY ADJUDICATION OF ISSUES.**

**FORM OF MOTION.** All motions for summary judgment or summary adjudication of issues must conform to the requirements of CCP §437c. These requirements will be strictly enforced by the Court.

(A.D.7-1-2002)

## 2.14 - DISCOVERY DISPUTES

**(a) SPECIAL REFEREES.** It is the policy of the Court to consider the appointment of special referees pursuant to CCP § 639 as necessary to assist in the resolution of discovery disputes. In the event that the hearing judge appoints a special referee, the moving party shall prepare an order containing the following:

1.A provision granting the referee power to set the date, time, and place for all hearings determined by the referee to be necessary; to direct the issuance of subpoenas; to preside over hearings; to take evidence; and to rule on objections, motions, and other requests made during the course of the hearings, all with the same power as if the Court were to preside thereat (*except for the power of contempt which is specifically reserved to the Court*).

2.A provision requiring the referee to submit a written report to the parties and to the Court within twenty (20) days after the completion of the hearing, containing a proposed order and proposed sanctions if deemed appropriate.

3.A provision that objections to the report shall be filed with the Court no later than ten (10) calendar days after the date of mailing the report to counsel, which objections shall notice a hearing; copies of the objections and responses thereto shall be served upon the special referee.

4.A provision setting forth the hourly fee to be paid to the referee and stating that the fees for the referee and Certified Shorthand Reporter shall be paid equally by the parties within ten (10) days of billing.

5.A provision that directs the special referee to recommend that one or more of the parties pay more than an equal share of the fees.

6.A provision that the Court reserve jurisdiction to make such other and further orders with respect to the special referee as may be just and proper.

(A.D. 1-1-2000)

## 2.15 - RESERVED

(A.D. 1-1-2000)

**2.16 - COMPROMISE OF MINOR'S OR INCOMPETENT'S CLAIM**

**(a)** A petition for Court approval of a compromise or covenant not to sue pursuant to CCP §372 or Prob §§2504 or 3500 shall be verified by the petitioner and, in addition to the matters required by CRC rule 241(b) and (c), it shall contain:

1. The name, birth date, age and sex of the minor or incompetent person,
2. The nature and extent of the injury giving rise to the claim with sufficient particularity to inform the Court whether such injury is permanent or temporary,
3. The original or a photocopy of all doctor's reports containing a diagnosis and prognosis of the injury, and a current report of present condition,
4. The facts or events and circumstances out of which the claim or injury arose, including the time, place and persons involved and a copy of any existing accident investigation report of any police agency.
5. A full disclosure of all information concerning the reasonableness of the proposed compromise or covenant not to sue, including the amounts if any, paid or to be paid to other claimants,
6. The original or a photocopy of each bill is not required. However, an itemized summary of the bills is required.
7. If the money is to be deposited in an account subject to withdrawal only upon Order of the Court, the name and address of the depository, and
8. The amount of attorney fees requested. Where the fees requested exceed the amount provided by Butte County LR §2.17, a written request shall be submitted which will include: **[1]** an itemized statement of the services rendered by the attorney; **[2]** the sum requested for each item of service, together with the total amount requested for such services (*and not merely "reasonable fees"*); and, **[3]** a statement justifying exceeding the normal amount. In determining such fees, the Court shall consider the difficulty of the tasks performed and the reasonable value of time expended.

**(b)** A petition for withdrawal of money deposited in a bank, trust company or savings and loan association on behalf of a minor or incompetent person shall be verified by the guardian, conservator or trustee and, in the case of a competent minor, by such minor if [s]he is at least twelve (12) years of age. An attorney's services relating to such petition are usually included in any fees awarded to the petitioner's attorney at the settlement of the action and, except as otherwise ordered by the Court for good cause shown, no attorney fees shall be charged by such attorney or approved by the Court for such services.

(A.D. 7-1-2002)

**2.17 - ATTORNEY FEES IN CASES INVOLVING MINORS OR INCOMPETENT PERSONS**

(a)FEES. In cases compromised under CCP §372 or PROB §3500, the attorney fees awarded by the Court shall, under normal circumstances, not exceed the following amounts:

1.25 percent of the amount recovered when the case is settled before trial.

2.33 1/3 percent of the amount recovered when the case is settled during trial after a substantial part of plaintiff's case has been introduced or after judgment.

3.Not more than the fees prescribed in subdivision (a)(2) when the case is settled between the times specified in subdivisions (a)(1) and (a)(2).

4.40 percent of the amount recovered when the case is settled after the filing of respondent's brief on appeal.

5.An amount less than (a)(1), which shall reflect actual work done, when the recovery is under an uninsured motorist clause in an insurance policy.

(b)COMPUTATION OF FEES. In computing fees, parents claiming reimbursement for expenses shall, except in cases of hardship, pay their proportionate share of the attorney fees. Expenses of litigation to be reimbursed shall not be included in the "amount recovered" for the purpose of fixing fees. Such expenses of litigation shall be separately itemized.

(c) COURT APPROVAL OF EMPLOYMENT CONTRACT--cf. PROB. §2644. Except for good cause shown, no contract of employment providing for attorney fees shall be approved by the Court in advance. Under no circumstances shall the contract be considered for approval in advance without the client's appearance on the application for Court approval. (A.D. 7-1-02

**2.18 - RESERVED**

(A.D. 1-1-2000)

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name and Address):        BAR No.: ATTORNEY FOR (Name):	TELEPHONE NO:	<b>COURT USE ONLY</b>
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF BUTTE</b> <input type="checkbox"/> ONE COURT STREET - OROVILLE, CA 95965 – (530) 532-7002 <input type="checkbox"/> 655 OLEANDER AVE, CHICO, CA 95926 – (530) 532-7009		
PLAINTIFF(S):  DEFENDANT(S):		
<input type="checkbox"/> DECLARATION RE: NOTICE OF EX PARTE APPLICATION FOR ORDERS <input type="checkbox"/> ORDER SHORTENING TIME		
		CASE NUMBER:

I, \_\_\_\_\_, do declare:

1. That I am ☐ Counsel for ☐ Plaintiff ☐ Defendant in the within action.
2. I have given notice of the present application for an ex parte order and/or order shortening time to:
  - ☐ Counsel for ☐ Plaintiff ☐ Defendant in the following manner:
    - a. ☐ By telephone call: at \_\_\_\_\_ .m., on \_\_\_\_\_, 20\_\_\_\_. The person to whom I spoke was \_\_\_\_\_. The message left was:  
 \_\_\_\_\_  
 \_\_\_\_\_
    - b. ☐ By letter: ☐ mailed ☐ personally delivered at \_\_\_\_\_ .m., on \_\_\_\_\_, 20\_\_\_\_.
3. I received the following response to said notice: \_\_\_\_\_  
 \_\_\_\_\_
4. I did not give notice of the present application for the following reason(s) indicated:
  - a. ☐ Notice of this ex parte application would frustrate the purpose of the orders sought herein. (Explain)\*  
 \_\_\_\_\_  
 \_\_\_\_\_
  - b. ☐ The applicant would suffer immediate and irreparable harm before the adverse party could be heard in opposition. (Explain)\*  
 \_\_\_\_\_  
 \_\_\_\_\_

c. ☐ No significant direct burden or inconvenience to the adverse party will be likely to result from the order sought herein. (Explain)\*

d. ☐ Prior attempts to give notice have failed and would probably be futile or unduly burdensome. (Explain in detail)\*

**NOTE: CALIFORNIA RULE OF COURT 379 GOVERNS NOTICE REQUIREMENT**

I DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF CALIFORNIA THAT THE FOREGOING IS TRUE AND CORRECT.

PLACE: \_\_\_\_\_  
20\_\_\_\_

DATE: \_\_\_\_\_,

\_\_\_\_\_  
TYPE OR PRINT NAME

\_\_\_\_\_  
SIGNATURE OF PARTY OR PARTY'S ATTORNEY

**ORDER SHORTENING TIME**

Time for ☐ service is shortened. Service shall be on / or before \_\_\_\_\_,  
20\_\_\_\_. (Date)

☐ hearing is shortened. Hearing is set \_\_\_\_\_,  
20\_\_\_\_. (Date)

DATE: \_\_\_\_\_, 20\_\_\_\_  
\_\_\_\_\_

JUDGE OF THE SUPERIOR COURT

# BUTTE COUNTY RULES OF COURT

## LOCAL RULE 3

### DELAY REDUCTION RULES

#### RULE 3 ADMINISTRATION OF CIVIL LITIGATION

(Title A.D. 1-1-99)

##### 3.1 - EFFECTIVE DATE

This rule applies to all general civil cases filed, in the Superior Court after July 1, 1992, and such other cases assigned to the Trial Court Delay Reduction Program ("*Program*") by the presiding judge. Juvenile, Probate, Civil Harassment and Domestic Relation cases (*including all cases filed by the BUTTE COUNTY DEPARTMENT OF CHILD SUPPORT SERVICES under the Welfare & Institutions code*), Extraordinary Writs, Unlawful Detainer, Small Claims and Asset Forfeiture cases under Health and Safety Code (H&S) §11470 et. seq. are not included.

(A.D. 7-1-02)

##### 3.2 - DEFINITIONS

As used in Rule 3:

(a) The term "counsel" includes parties representing themselves;

(b) The term "plaintiff[s]" also includes cross-complainant[s];

(c) The term "defendant[s]" also includes cross-defendant[s].

(E.D. 7-1-92)

##### 3.3 - RESERVED

(A.D. 1-1-99)

##### 3.4 - TRANSFERRED CASES

Unless excluded under Local Rule (LR) § 3.1, all cases transferred from another jurisdiction are subject to this rule.

(E.D. 7-1-92)

##### 3.5 - POLICY

It is the policy of the Butte County Superior Court,

(a) to manage all cases from the moment the complaint is filed;

(b) to conclude 90% of all civil litigation cases filed within twelve (12) months of the filing of the complaint;

(c) to conclude 98% of all civil litigation cases within eighteen (18) months of the filing of the complaint and 100% within twenty-four (24) months;



Rule 3.5 (Continued)

(d) that once any date has been set, it cannot be changed without a showing of good cause.

(A.D. 7-1-02)

**3.5.1 - RESERVED**

(A.D. 7-1-02)

**3.6 - SERVICE OF INITIAL PLEADINGS, AMENDMENTS AND RESPONSIVE PLEADINGS**

(a) Pursuant to CRC §201.7, the complaint, cross-complaint, any amended complaints and responsive pleadings must be served and a proof of service filed with the Court.

(b) Upon failure to serve the complaint, cross-complaint, any amended complaints and responsive pleadings and file a proof of service as required above, an Order to Show Cause shall issue as to why counsel shall not be sanctioned for failure to comply with this rule. Responsive papers to the Order to Show Cause must be filed and served ten (10) calendar days in advance of the hearing.

(c) in regards to uninsured motorists cases:

1. Promptly upon learning that an action is to proceed as an uninsured motorist case, counsel for plaintiff[s] shall file a request setting forth the information upon which such a determination has been made. The request shall include: a statement that coverage exists under an uninsured motorist's insurance policy, the name of the carrier, and limits of coverage. It shall also include a statement that counsel believes that the limits of coverage are adequate to compensate for known loss or damage; that plaintiff[s] will promptly pursue such remedy and that it is counsel's present intention to assign the claim or dismiss the pending action upon receipt of a recovery by settlement or award;

2. The Request shall be captioned "Request for Temporary Exemption - Uninsured Motorist Case"; and contain a form of order.

3. Upon review of the request, the Court may designate the action as an uninsured motorist case in which event the time requirements under this rule will be suspended for up to 180 days from the date the complaint was filed or from such other date the Court, in its discretion, shall fix. The case will be monitored by the setting of a review hearing at the end of the suspension period. If a dismissal has not been filed, counsel for plaintiff[s] must file a further declaration ten (10) court days prior to the review hearing date, provide a status report, and, if necessary, a request with supporting justification for additional time to conclude the case.

(A.D. 7-1-02)

### 3.7 - CASE MANAGEMENT PLAN

**(a) Pursuant to CRC §209(b) each case shall be evaluated and assigned to one of the following plans:**

Plan 1 – Disposition within 12 months from the date of filing

Plan 2 – Disposition within 18 months from the date of filing

Plan 3 – Disposition within 24 months from the date of filing

Plan 4 – Disposition within 9 months from the date of filing

The Court presumes that an unlimited case is subject to a disposition goal of Plan 1 unless exempted by good cause shown.

The Court presumes that a limited case is subject to a disposition goal of Plan 4 unless exempted by good cause shown. Limited cases that have not been adjudicated or have filed a conditional settlement by the time of the Case Management Conference (within 120 days from initial filing of the complaint) shall be ready to set for trial.

**[EXCEPTION ORDER]** The Court may in the interest of justice exempt a case from the disposition goals if it finds the case involves exceptional circumstances that will prevent the Court and the parties from meeting the goals and deadlines imposed by the program. In making this determination, the Court is guided by CRC §210 and §1800.

In the event, the Court exempts a case, the Court shall designate a case management plan, with a maximum disposition goal of 3 years (36 months) from the date of filing pursuant to CRC 209(d).

(E.D. 7-1-2002)

### 3.8 - CASE MANAGEMENT CONFERENCE

#### **(a) FILING OF COMPLAINT.**

1. Upon filing a complaint, the plaintiff shall receive the following from the Clerk:

**A.** Notice of Assignment and Case Management Conference. *(The Case Management Conference will be set within 180 days of the filing date of the original complaint for all cases except for limited general civil. Limited general civil (Plan 4) cases will be set for a Case Management Conference within 120 days of filing of the initial complaint);* and

**B.** A blank Case Management Statement [Judicial Council Form CM-110]

**C.** An Alternative Dispute Resolution Package

2. Any cross-complaint naming new parties shall also be served with a blank Case Management Statement, the notice of Case Management Conference, [Form: RUL-3-DR.030], and an Alternative Dispute Resolution Package.

*[Rule 3.8 Continued]*

**3.** If a case is transferred from another jurisdiction after a responsive pleading has been filed, the Case Management Conference will be set within forty-five (45) days from the date of receipt. If no responsive pleading has been filed, the Case Management Conference will be set within ninety (90) days from the date of receipt. In all other particulars, the plaintiff in a transfer case will receive the same information and items as described in LR §3.8(a) 1.

**(b) NOTICE.** At the time of serving the Summons and Complaint (*and a cross-complaint upon a new party*), the responding party shall be served with the Notice of Assignment, and Case Management Conference a blank Case Management Statement by the plaintiff (*or cross-complainant*) and an Alternative Dispute Resolution Package. Plaintiff/Cross-Complainant shall provide Proof of Service and file with the Court.

**(c) CASE MANAGEMENT STATEMENT (CMS).** Each appearing party shall file and serve the completed Case Management Statement no later than fifteen (15) calendar days before the Case Management Conference. Subsequent Case Management Statements may be required at the discretion of the Court for further evaluation.

**(d) CASE MANAGEMENT CONFERENCE.** Counsel for each appearing party shall attend the Case Management Conference, or shall have other counsel appear on his/her behalf or may appear telephonically. Counsel or counsel appearing for counsel of record, shall be prepared to discuss all matters enumerated in 3.8(d)1.A. - 1.H. Counsel or counsel appearing on behalf of counsel of record, shall be subject to sanctions if not fully prepared to address items 3.8(d)1.A - 1.H. on behalf of the party for whom they are appearing.

**1.** At the Case Management Conference, the Court shall make all appropriate pretrial orders pursuant to CRC §212(e) including, but not limited to:

**A. CASE EVALUATION:** all civil cases subject to this rule shall be evaluated and designated by the Court pursuant to LR § 3.7. The assigned judge will decide which case plan is appropriate based on the Case Management Statements. The assigned judge may redesignate any case at any time after a hearing set for that purpose.

**B. DISMISS DEFENDANTS, WITH THE EXCEPTION OF DOE DEFENDANTS.** Orders dismissing defendants, fictitious cross-defendants, served and unserved defendants and cross-defendants who have not appeared and against who no default has been taken, unless the Court for good cause otherwise orders and sets dates by which they shall be served;

**C. ALTERNATIVE DISPUTE RESOLUTION.** The Court may make Orders on stipulation to binding arbitration, judicial arbitration, and set the date for completion of the arbitration and filing of the award.

The Court shall examine and consider Alternative Dispute Resolution programs or procedures available to the parties, including conciliation and mediation, and shall require the parties to attempt such alternative means of resolving the dispute whenever feasible and whenever doing so may expedite the resolution of the dispute.

Pursuant to LR §5, CCP §1775 et.seq. and CRC §1630 through §1639, the Court shall determine the case's amenability to court ordered mediation;

**D. TRANSFER.** Orders transferring an unlimited case to a limited case on stipulation or on the Court's determination that it is reasonably probable that the amount in controversy will not exceed \$25,000;

[Rule 3.8 Continued]

**E. BIFURCATION, SEVERANCE, CONSOLIDATION.** Orders consolidating (*for all or limited purposes*), bifurcating, or severing issues or causes of action;

**F. DISCOVERY AND LAW AND MOTION.** Orders scheduling dates by which discovery and law and motion matters must be completed;

**G. FURTHER CASE MANAGEMENT CONFERENCE.** At the Case Management Conference, the Judge may order a further Conference wherein all counsel of record are required to personally attend.

**H. TRIAL DATE, TRIAL READINESS CONFERENCE DATE.** At the Case Management Conference, the Court will ordinarily set the matter for Trial and set a Trial Readiness Conference. Counsel appearing should be prepared with trial counsel's available dates.

2. Failure to file cross-complaints shall not be considered a valid ground for enlarging the time for trial, arbitration or other processes. Untimely cross-complaints shall, in most cases, be severed so as not to delay the orderly processes of the Court.

(A.D. 7-1-2002)

### **3.9 - SETTLEMENT CONFERENCES**

**(a)** This Court adopts the policy that good faith efforts to settle civil proceedings are an essential part of the judicial process, and that good faith efforts to settle shall be made in conformity with CRC §222.

#### **(b) AUTHORITY TO SETTLE.**

1. Each person required to attend the settlement conference, must have full authority to make decisions and negotiate concerning the case for which the settlement conference is scheduled.
2. The attorney[s] for all parties appearing in the action who attend the conference, must be intimately familiar with the pertinent available evidence involving both liability and damages. The attorney[s] assigned to try the case shall be present at the settlement conference, unless good cause for his or her absence is shown.
3. All counsel shall ascertain whether there are claims or liens which may affect a settlement, and if so, request in writing the claimants or lienholders, or their representatives, to attend the settlement conference. A copy of such written request shall be mailed to the Court.

#### **(c) SETTLEMENT CONFERENCE STATEMENTS AND SUPPORTING DOCUMENTS.**

1. Not less than ten (10) days prior to the scheduled settlement conference, each party shall file and serve the Settlement Conference Statement.

The Settlement Conference Statement shall be in writing and shall describe the case and all relevant legal issues, factual issues, and contentions. The statement and supporting material must be sufficiently detailed to enable the settlement conference judge or the pro tem judges to conduct a meaningful settlement conference.

*[Rule 3.9 Continued]*

2. The attorney[s] for each party or each party representing themselves claiming damages in a personal injury action shall bring to the conference all reports and records of any and all examining doctors, shall include in the settlement conference statement a list of all special damages claimed, and shall supply corroborating evidence, to be available for examination by the settlement conference judge.

In a personal injury action, the special damages for each plaintiff should be up-to-date, listed separately, totaled, and categorized as health care (*including medical, hospital, ambulance, and drugs*) and loss of earnings, if any.

Opposing counsel shall bring with them copies of all reports and records of all examining doctors employed by them or their insurance carrier[s], if any, who examined plaintiff[s], to be available for consideration by the settlement conference judge.

3. All counsel shall organize in advance and bring to the conference such medical reports and records and any depositions (*with relevant pages premarked*), photographs, books, records, diagrams, maps, bills, contracts, memoranda, and all other documents pertinent to settlement of the case for examination by the settlement conference judge.

**(d) POWERS OF THE COURT AT SETTLEMENT CONFERENCES.**

1. The settlement conference judge may accept for filing the written stipulations by the parties, but shall not, except for good cause shown, change the date set for trial or hear and rule on law and motion matters.

2. In all conferences resulting in settlement of a case, the terms thereof may be placed upon the record with a reporter present or, if one is not available, by minute order. Enforcement of the settlement shall be pursuant to CCP §664.6.

3. Requests for continuance of the date of the initial settlement conference shall be addressed to the Court. However, the settlement conference judge or those conducting the settlement conference may, at the conclusion of the conference, continue it to any other convenient date or time prior to the date set for trial.

**(e) EXCUSES FROM ATTENDANCE; TELEPHONE AVAILABILITY.**

1. Any application to the Court to excuse attendance of any person whose attendance is required by CRC § 222 shall be made to the assigned judge not less than five (5) days before the date set for the settlement conference.

2. Any person whose presence at a settlement conference is required by CRC § 222 may be excused by order of the Court for good cause shown but, if so excused, shall be and remain immediately available for telephone communication with counsel and the Court at the time set for and throughout the settlement conference.

**(f) NOTICE TO COURT UPON SETTLEMENT.**

Should any case set for a settlement conference settle or otherwise terminate before the date of any conference, hearing, or trial, the attorneys for the parties shall immediately notify the clerk pursuant to CRC §225.

Upon the settlement of a case at any time following the settlement conference and before the trial date, each party seeking any affirmative relief in the action shall immediately notify the clerk, particularly if a further settlement conference is calendared.

*[Rule 3.9 Continued]*

**(g) MANDATORY MEET AND CONFER**

Representatives of each party, with full authority to settle, shall meet in person or confer by telephone no less than 10 days before the settlement conference in a good faith attempt to settle the case.

A good faith offer and a good faith demand shall be exchanged. Failure to make a good faith attempt to settle will result in the Court considering sanctions.

(A.D. 7-1-2002)

**3.10 - RESERVED**

(A.D. 1-1-2000)

**3.11 - SANCTIONS**

If the Court finds that any party has not proceeded with due diligence or has otherwise failed to comply with local rule and CRC §§ 201-227, the following sanctions may be imposed:

1. Strike all or any part of the pleadings of the party violating the rules;
2. Dismiss the action or enter judgment by default against such party;
3. Impose other penalties of a lesser nature as otherwise provided by law; or
4. Order that party or his or her counsel to pay to the moving party reasonable expenses, including attorney fees, incurred in seeking enforcement of the rules. [CCP § 575.2(a)]

(A.D. 7-1-02)

<b>Superior Court of California, County of Butte</b> *** <input type="checkbox"/> 655 OLEANDER DR. — CHICO, CALIFORNIA 95926 (530) 532-7009	<b>Court Use Only</b>
<b>NOTICE OF ASSIGNMENT &amp; CASE MANAGEMENT CONFERENCE</b>	CASE NUMBER:

1. NOTICE is given of Assignment of the above entitled case for all purposes to:

JUDGE: \_\_\_\_\_ COURTROOM: **TBA**

2. NOTICE is given that the Case Management Conference is scheduled as follows:

Date: \_\_\_\_\_ Time: \_\_\_\_\_ Court Facility: ☐ CHICO (655 OLEANDER, CHICO)

**PLAINTIFF/CROSS COMPLAINANT MUST SERVE THIS NOTICE WITH SUMMONS AND COMPLAINT/CROSS COMPLAINT**

3. You **must** file & serve a completed Case Management Statement at least fifteen days before the conference.
4. You **must** be familiar with the case and be fully prepared to participate effectively in the Case Management Conference by personal or telephonic appearance. (Telephonic appearances are arranged by calling Court Call at 1-888-882-6878.)
5. At the Case Management Conference, the court shall make pretrial orders, including but not limited to:
  - a. Establishing a discovery schedule.
  - b. Ordering the case to mediation or arbitration.
  - c. Dismissing fictitious defendants.
  - d. Scheduling exchange of expert witness information.
  - e. Setting subsequent conferences and the trial date.
  - f. Consolidating cases.
  - g. Severing trial of cross-complaints or bifurcating trial of issues.
  - h. Determining when demurrers, motions to strike and other motions are to be noticed.

**\* \* \* Note: Counsel and Parties Should Review CRC §212. \* \* \***

**\* \* SANCTIONS \* \***

If you do not, (1) file the Case Management Statement, (2) attend the Case Management Conference personally or by telephone (or have counsel attend for you), and/or (3) you (or counsel appearing for you) do not participate effectively in the conference, the court may impose sanctions (including dismissal of the case and payment of money).

I declare under penalty of perjury that I am not a party to this action, am at least 18 years of age and that I personally delivered/or mailed a copy of this Notice of Assignment & Case Management Conference with the conference date and hearing time inserted to \_\_\_\_\_, a person representing the plaintiff/cross-complainant.

Date: \_\_\_\_\_, 20\_\_\_\_ Sharol H. Strickland, Clerk of the Court, by \_\_\_\_\_, Deputy.





# BUTTE COUNTY RULES OF COURT

## LOCAL RULE 4

### DELAY REDUCTION RULES

(Effective Date: 7-1-97)  
(Title Amended Date 1-1-99)

#### **RULE 4      ADMINISTRATION OF UNLAWFUL DETAINER CASES**

(Title A.D. 7-1-02)

##### **4.1           -      EFFECTIVE DATE**

This rule applies to all unlawful detainer cases filed after July 1, 1997, and such other cases assigned to the Trial Court Delay Reduction Program by the presiding judge. Small claims cases are not included.

(A.D. 7-1-02)

##### **4.2           -      DEFINITIONS**

As used in Rule 4:

(a)The term “counsel” includes parties representing themselves.

(b)The term “plaintiff(s)” also includes cross-complainant(s).

(c)The term “defendant(s)” also includes cross-defendant(s).

(d)“Conditional Settlement” means a binding settlement agreement filed with the court which will result in a dismissal on the satisfactory completion of specific terms or result in a judgment without further hearing upon the filing of a declaration establishing defendant’s default.

(e)“Stipulation for Entry of Judgment” means that an agreement has been made between the parties on opposite sides of a lawsuit and that if a party fails to comply with the terms of the agreement, judgment will be entered pursuant to said stipulation. If the parties comply with the terms of the agreement, the case will be dismissed.

(f)“Stipulated Judgment” means an agreement has been reached between the parties or their attorneys that a judgment be entered with the understanding that certain terms and conditions will be performed by the parties involved in the suit.

(E.D. 7-1-97)

##### **4.3           -      TRANSFERRED CASES**

All cases transferred from another jurisdiction are subject to this rule.

(E.D. 7-1-97)

#### **4.4 - POLICY**

It is the policy of the Court,

- (a) to manage all cases from the moment the complaint is filed;
- (b) to conclude 90% of all unlawful detainer litigation cases filed within thirty (30) days of filing of the complaint and 100% within forty-five (45) days;
- (c) that once any date has been set, it cannot be changed without a showing of good cause;
- (d) to monitor all cases on the court's calendar until judgment is entered or a dismissal filed;
- (e) that at the time of adjudication of the case, by dismissal or entry of judgment, all remaining parties, including DOES, will be dismissed by the court.

(A.D. 7-1-02)

#### **4.5 - EXCEPTION ORDERS**

Nothing in this rule shall be interpreted to prevent the Court in an individual case, on written motion of any party or the Court's own motion, from issuing an Exception Order based on a specific finding that the interests of justice require a modification of the routine processes as prescribed by this rule.

(E.D. 7-1-97)

#### **4.6 - FILING OF COMPLAINT**

At the time of filing of the complaint the plaintiff will be notified that an OSC re: Dismissal will be issued in 45 days if the case has not been adjudicated or a memorandum to set case for trial or conditional settlement has not been filed.

(A.D. 7-1-02)

#### **4.7 - SERVICE OF SUMMONS**

Any proposal for an order for service by publication, or posting, presented to the court shall contain the date by which such service will be completed.

(A.D. 7-1-02)

**4.8 - MEMORANDUM TO SET CASE FOR TRIAL**

(a) A Memorandum to Set Case for Trial (RUL-1-GR.010) shall be filed within 45 days of the filing of the complaint.

(b) If a Memorandum to Set Case for Trial is not filed within the time specified in Rule 4.8(a) an Order to Show Cause shall issue.

(A.D. 7-1-02)

**4.9 - SETTING OF CASES FOR TRIAL**

**Trial dates will be assigned under the direction of the Supervising Judge of the Civil Division or designee.**

(A.D. 7-1-02)

**4.10 - DEMAND FOR JURY TRIAL**

**(a) A party desiring a jury trial shall, after issue is joined, make demand at the time of filing the Memorandum to Set Case for trial, or by written demand within five (5) days after service of such memorandum by any other party.**

(b) Jury fees in the amount of \$150.00 must be deposited with the clerk's office at least 5 calendar days prior to the date of trial.

(A.D. 7-1-02)

**4.11 - RESERVED**

(A.D. 1-1-2000)

**4.12 - DUTY OF COUNSEL**

(a) In estimating the time for the trial of an action, it shall be the duty of the attorney to estimate said time as accurately as possible.

**(b) Pursuant to California Rules of Court, Rule 225, whenever a case set for trial has been settled, the attorneys or parties shall immediately notify the court thereof. Failure to do so will be deemed an interference with the proceedings of the court and may result**

[Rule 4.12 Continued]

in defaulting counsel being ordered to show cause why counsel should not be held in contempt of court, or other sanctions imposed.

(c)Plaintiff shall file a dismissal, stipulated judgment or conditional settlement with the Court pursuant to CRC 225. Failure to do so shall result in dismissal, unless good cause is shown.

(A.D. 7-1-02)

# BUTTE COUNTY RULES OF COURT

## LOCAL RULE 5

(Effective Date: 7-1-95)

### **RULE 5            NON-BINDING JUDICIALLY MANDATED MEDIATION**

#### **5.1               -            AUTHORITY**

The Court has elected to participate in the pilot project established by CCP §1775 et.seq. and CRC 1630 - 1639. (A.D. 1-1-99)

#### **5.2               -            ACTIONS SUBJECT TO MEDIATION**

**(a)** The Court may order to mediation any case in which the amount in controversy does not exceed \$50,000 for each plaintiff independent of the merits of liability, defenses or comparative negligence. [CCP §1775.3; CRC 1631(a)(1)]

**(b)** Any other action, regardless of the amount in controversy, in which all parties stipulate to such mediation. The stipulation must be filed not later than ninety (90) days before trial, unless the Court permits a later filing. [CRC 1631(a)(2)]

**(c)** A case will not be excluded from mediation because it involves a prayer for equitable relief. [CCP §1775.3] (E.D. 7-1-95)

#### **5.3               -            DETERMINING AMOUNT IN CONTROVERSY**

The amount in controversy may be determined at the Case Management Conference. [LR §3.8(d) et.seq.] (A.D. 07-01-2002)

#### **5.4               -            DETERMINING IF ACTION IS SUBJECT TO MEDIATION**

**(a)** Amenability to mediation shall be determined on a case-by-case basis rather than categorically. [CRC 1631(b)] However, the Court may establish criteria for evaluation of cases most appropriate for referral to mediation.

**(b)** Amenability to mediation will be determined at the Case Management Conference. However, no appearance is required for this purpose. [CRC 1631(a)(1)]

**(c)** Amenability to mediation will be determined on the basis of the pleadings, the Case Management Statement [JC – CM110], and the views expressed by the parties on this issue. [CRC 1631(a)(1)] (A.D. 7-1-2002)

#### **5.5               -            OTHER RESTRICTIONS ON AMENABILITY**

**(a)** Actions previously ordered to judicial arbitration shall not be ordered into mediation.

**(b)** Actions ordered into mediation shall not, at a future date, be ordered into judicial arbitration. However, parties may stipulate at the end of a mediation which fails to fully resolve all issues, that the mediator may render an advisory ruling in an attempt to assist settlement. (E.D.7-1-95)

## **5.6 - TIME RESTRICTIONS FOR MEDIATION**

Other than the time restrictions in LR §§ 5.2(b) and 5.12, there are no other time restrictions

(E.D. 7-1-95)

## **5.7 - MEDIATION'S AFFECT ON FAST TRACK AND INVOLUNTARY DISMISSAL TIME LINES**

**(a)**Submission of an action to mediation shall not affect time periods specified in the Trial Court Delay Reduction Act. However, upon written stipulation of the parties filed with the Court, there shall be an exception of up to ninety (90) days to the delay reduction time standards to permit mediation of an action. [CRC 1637(a),(b)]

**(b)**The 210 day limitation of GC §68616(g) does not apply to mediation.

**(c)**Submission of an action to mediation shall not affect deadlines for service of summons or extend the time to bring the action to trial. [CCP §1775.7(a)]

**(d)**See CCP §1775.7(b) for an exception to the five (5) year dismissal period. (E.D. 7-1-95)

## **5.8 - SELECTION OF MEDIATOR**

**(a)**A panel of mediators will be maintained by the Court in consultation with the local area bar associations and ADR providers. Mediators shall have a minimum of twenty-five (25) hours of prescribed classroom mediation instruction, meeting the requirements of CRC 1632, or a minimum of twenty-five (25) hours of actual mediation experience. [CRC 1632] Lay persons who meet CRC 1632 requirements may serve as mediators. However, mediators assigned by the Court to personal injury or other specialized matters, may be required to have specialized training and/or experience in that field. The list of available mediators will be maintained by the Clerk.

**(b)**At any time after the filing of the complaint and before the Case Management Conference, if all parties stipulate, in writing, that the case can be assigned to mediation, the case shall be assigned to mediation. Where parties stipulate to mediation in advance of the Case Management Conference, a mediator may be selected from the Court's list either by personal appearance at the Clerk's office, or by phone. In the alternative, the parties may use a mediator of their own selection not on the Court's list.

**(c)**After the case is ordered to mediation, the parties have fifteen (15) calendar days in which to stipulate, in writing, to a mediator. If the Clerk does not receive the written stipulation within fifteen (15) calendar days, the Court will promptly assign a mediator to the action from the Court's panel of mediators. A mediator shall be appointed no later than thirty (30) days after the case is ordered to mediation. [CRC 1633; CCP §1775.6]

(A.D. 1-1-2003)

**5.9 - MEDIATOR'S FEE**

For Court Ordered Mediation, the mediator is entitled to \$150.00 per case for the first three hours of mediation, as compensation for the mediator's services. Any additional compensation above \$150.00 requires an agreement between the parties as to compensation. A Mediator's Fee Statement [LR Form: RUL-5-MM.030], provided by the Clerk's office, shall be submitted to the Clerk upon filing the "Statement of Agreement or Nonagreement" [LR Form: RUL-5-MM.010] with the Court. Failure to timely file the Fee Statement constitutes a waiver of compensation. [CCP §1775.8]

(A.D. 7-1-2002)

**5.10 - RESERVED**

(A.D. 1-1-2000)

**5.11 - APPEARANCES REQUIRED AT MEDIATION**

The parties shall personally appear at the first mediation session, and at any subsequent session unless excused by the mediator. When the party is other than a natural person, it shall appear by a representative with authority to resolve the dispute or, in the case of a governmental entity that requires an agreement to be approved by an elected official or legislative body, by a representative with authority to recommend such agreement. Each party is entitled to have counsel present at all mediation sessions that concern it, and such counsel and an insurance representative of a covered party also shall be present or available at such sessions, unless excused by the mediator

(E.D. 7-1-95)

**5.12 - COMPLETION OF MEDIATION**

Mediation shall be completed within one hundred twenty (120) days of a reference to a mediator, but that period may be extended by mutual agreement of the parties and the mediator

(A.D. 1-1-97)

**5.13 - FILING OF STATEMENT BY MEDIATOR**

Within ten (10) days of the conclusion of mediation, the mediator shall file a Statement of Agreement or Nonagreement [JC Form ADR-100], advising the Court whether the mediation ended in full agreement or nonagreement as to the entire case or as to particular parties in the case. [CRC 1635]

(A.D. 7-1-01)

**5.14 - FAILURE TO SETTLE IN MEDIATION**

**(a)** If the Court finds that any party has not participated, in good faith, in Mediation or has otherwise failed to comply with this rule, sanctions may be imposed.

(A.D. 7-1-02)

**5.15 - RESERVED**

(A.D. 1-1-2000)

**5.16 - STATISTICAL INFORMATION**

If the case is resolved in whole or in part through mediation, the parties are required to provide the information called for on the ADR Information Form [JC Form: ADR 101] to the Clerk's office. [**CRC** §1638(b)]

(A.D. 7-1-01)

<b>MEDIATOR'S NAME, ADDRESS &amp; TELEPHONE No.:</b>  Social Security or Federal I.D. No.:	<b>COURT USE ONLY</b>
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF BUTTE</b> *** <input type="checkbox"/> 655 OLEANDER AVE. – CHICO, CALIFORNIA 95926 – (530) 532-7009	
<b>Plaintiff(s):</b>  <b>Defendant(s):</b>	
<p style="text-align: center;"><b>MEDIATOR'S FEE STATEMENT</b> [LR § 5.9]</p>	<b>CASE NUMBER:</b>

Pursuant to LR §5.9, I hereby submit my Request for Payment of Mediator's Fees in the above-entitled matter. I declare that I was the duly appointed Mediator and that I fully performed all official responsibilities herein.

Mediation took place on [date(s)]: \_\_\_\_\_  
 and took a total of : \_\_\_\_\_ hours.

Statement of Agreement or Nonagreement has been submitted to the \*\*\* Clerk's Office for filing.

I HEREBY CERTIFY UNDER PENALTY OF PERJURY, UNDER THE LAW OF THE STATE OF CALIFORNIA, THAT THE FOREGOING IS TRUE AND CORRECT.

DATE: \_\_\_\_\_, 20\_\_\_\_\_  
 \_\_\_\_\_  
 Mediator's Signature

I hereby affirm that the above-named Arbitrator has completed all official duties required and has filed the Statement of Agreement or Nonagreement; and that the requested Mediator's Fee is in accordance with LR § 5.9. The requested Mediator's Fee in the amount of \$ \_\_\_\_\_ is hereby approved.

DATE: \_\_\_\_\_, 20\_\_\_\_\_  
 \_\_\_\_\_  
 JUDGE OF THE SUPERIOR COURT



# BUTTE COUNTY RULES OF COURT

## LOCAL RULE 7

(Effective Date: 7-1-89)

### **RULE 7            MANDATORY ARBITRATION**

#### **7.1 -    AUTHORITY**

This Local Rule (LR) is adopted to supplement Chapter 2.5 (*commencing with § 1141.10*) of Title 3 of Part 3 of the Code of Civil Procedure (CCP) and California Rules of Court (CRC) 1600-1616

(E.D. 7-1-89)

#### **7.2 -    APPLICABILITY**

These rules are applicable to all civil actions pending in the Butte County Superior Court, except for cases specified in CRC 1600.5(a)-(h); short cause matters are also exempt, except where Plaintiff elects arbitration, or where the parties stipulate to arbitration. A short cause matter is a case of three (3) hours duration or less.

(E.D. 7-1-89)

#### **7.3 -    ARBITRATION STATEMENT**

The Case Management Statement serves as an Arbitration Statement at the Case Management Conference and subsequent Conferences serve as the Arbitration Status Conference. (A.D. 7-1-2002)

#### **7.4 -    ARBITRATION FORMAT**

All information submitted in the Case Management Statement shall be inadmissible for any purpose in that or any other action. Nothing therein shall constitute an election by a Plaintiff under CCP §1141.12(b)(ii) or CRC 1600(b) or a stipulation by a Defendant under CCP §1141.12(a), unless the party submitting the statement specifically elects arbitration or specifically stipulates to arbitration. Pursuant to the provisions of CCP §§1141.11 and 1141.12(b)(ii) and CRC 1600(b), upon electing to arbitrate, the Plaintiff agrees that the arbitration award shall not exceed the amount in controversy set forth in CCP §1141.11.

(A.D. 7-1-2002)

#### **7.5 -    RESERVED**

(A.D. 7-1-2002)

#### **7.6 -    RESERVED**

**(A.D. 1-1-99)**

#### **7.7 -    RESERVED**

(A.D. 7-1-2002)

**7.8- RESERVED**

[A.D. 7-1-2002]

**7.9- RESERVED**

**7.10 - RESERVED**  
98)

(AD.7-1-

**7.11 - RESERVED**

(A.D. 1-1-2000)

**7.12 - RESERVED**

**7.13 - RESERVED**

**7.14 - RESERVED**

**7.15 - RESERVED**

**7.16 - SELECTION OF ARBITRATOR**

In any case ordered to Arbitration, the clerk shall, after the Case Management Conference or after a Court ordered subsequent Conference, provide a list of names of prospective arbitrators equal to the number of sides, plus one, to the parties, and each side may reject one name thereon. Rejections shall be exercised within fifteen (15) calendar days of Clerk's Notice of Mailing of the List of Arbitrators.

(A.D. 7-1-2002)

**7.17 - RESERVED**

(A.D. 1-1-2000)

**7.18 - ARBITRATION PANEL**

A roster of the members of the Court's Arbitration Panel, including retired judges, shall be available for review by counsel in the Clerk's office to encourage counsel to designate the arbitrator by stipulation, pursuant to CRC 1605(a).

(A.D. 7-1-2002)

**7.19 - ARBITRATION HEARING**

Within fifteen (15) days after the appointment of the arbitrator, the arbitrator shall notify each party and the Court, by letter of the date, time and place of the Arbitration Hearing. This hearing date may be continued by stipulation of counsel and the concurrence of the arbitrator. However, no arbitration hearing may be continued to a hearing date later than ninety (90) days after the appointment of the arbitrator, except by order of the assigned Judge upon a noticed motion showing good cause why the Arbitration Hearing could not occur within the ninety (90) days

(A.D. 7-1-2002)

**7.20 - NOTICE OF SETTLEMENT / SANCTIONS**

The arbitrator and the Court, through the clerk must be promptly notified by plaintiff of any settlement before the arbitration hearing. Failure to do so will lead to costs or sanctions being imposed on plaintiff. These costs or sanctions will include, but may not be limited to, the amount of the arbitrator's fees. (A.D.7-1-2002)

**7.21 - COURT FILE**

The original court file shall remain in the possession of the Clerk of the Court. (E.D. 7-1-89)

**7.22 - FILING AWARDS, DISMISSALS AND REQUESTS FOR TRIAL**

All awards by arbitrators, all dismissals of cases ordered into Arbitration prior to the arbitrator's award, and all requests for a trial pursuant to CRC 1616(a) shall be filed with the Clerk of the Court and shall include proof of service of a copy thereof upon all parties.

(A.D. 7-1-2002)

**7.23 - RESERVED**

(A.D. 1-1-2000)

## **INFORMATION SHEET**

### **GUIDELINES FOR ARBITRATORS**

#### **INTRODUCTION:**

The guidelines contained herein have been approved by the Butte County Superior Court for use by arbitrators in proceedings ordered by the Court or pursuant to stipulation. The guidelines are necessarily general in nature.

#### **PURPOSE:**

The guidelines are to be used in assisting the arbitrator in discharging the arbitrator's duties. For specific questions, you should refer to the California Code of Civil Procedure (**CCP**) § 1141, the California Rules of Court (**CRC**) §§ 1600 through 1617, and the Local Rules (**LR**) of the Butte County Superior Court.

#### **POWERS / RIGHTS:**

The arbitrator can hold a hearing within specific time limits [**CRC** § 1611]. The arbitrator may agree to a stipulated continuance also within strict time limits [**CRC** § 1607]. The arbitrator may administer oaths or affirmations, take adjournments, accept deposition testimony, accept other evidence pursuant to **CRC** § 1613, examine tangible evidence, receive into evidence expert reports, rule on admissibility and relevancy of evidence, decide law and facts of the case and make an award accordingly and award costs not to exceed statutory costs [**CRC** § 1614].

The arbitrator is entitled to \$150.00 compensation for each case. On a verified **ex parte** application showing good cause, an arbitrator may receive more than \$150.00 compensation for each case if there was unusual difficulty or duration. Consideration will be given to the number of continuances, notices, research, and issues decided. No compensation will be allowed if the matter was only set for hearing. Partial compensation may be allowed if the case is settled [**CRC** § 1608].

#### **OBLIGATIONS:**

An arbitrator must disqualify himself or herself and notify the administrator if there is a conflict of interest [**CRC** § 1606]. If there is no conflict of interest, the arbitrator must arrange or set the hearing for a date certain within 60 days from the date of the assignment of the case to the arbitrator [**CRC** § 1611]. If the hearing date is continued, it shall not be continued to a date later than 90 days after assignment of case to the arbitrator except by order of the Court on motion of a party [**CRC** § 1607(c)]. In the event there are any difficulties in meeting the above obligations, the arbitrator shall advise the Court in writing. Within 15 days after appointment of the arbitrator, the arbitrator shall notify each party and the administrator in writing of the date, time, and place of the arbitration hearing [**CRC** § 1605(a)].

The arbitrator's notice to the parties and the administrator of the hearing time, date, and place shall be given at least 30 days prior to the date set for the arbitration hearing [**CRC** § 1611]. After conducting the hearing, the arbitrator shall decide all issues properly raised by the pleadings including damages and costs, if appropriate, specifying for and against whom judgment is found using the full names of the parties as set forth in the pleadings [**CRC** § 1614]. The arbitrator shall file a written award within ten (10) days after conclusion of the arbitration hearing

with proof of service on each party to the arbitration and to the administrator [CRC § 1615(b)]. The arbitrator may apply for and receive an extension of time from the Court to allow an additional 20 days for the filing and service of the award if the case was of unusual length or complexity [CRC § 1615(b)]. At the time the award is filed, the arbitrator may file a voucher requesting payment of the arbitrator's fees. Failure to file a voucher with the filing of the award constitutes a waiver of the arbitrator's compensation.

If the case assigned to the arbitrator is settled, the parties shall notify the arbitrator and the arbitration administrator of the settlement. Before any case is heard and decided by an arbitrator, the arbitrator must file an oath with the arbitration administrator's office to justly try all matters submitted to the arbitrator.

**PROCEDURE:**

Upon appointment as an arbitrator, the arbitrator shall communicate with the parties or the parties' counsel and arrange for the setting of an arbitration hearing. Only procedural matters may be discussed with the parties' counsel [CRC § 1609]. The arbitrator then serves a written notice of the date, time, and place of the arbitration hearing on all parties or their counsel and on the arbitration administrator in accordance with the obligations set forth above. The arbitrator shall conduct the hearing, giving each party and their counsel an opportunity to present any and all relevant evidence subject to CRC § 1613. At the conclusion of the hearing, the arbitrator shall make its decision in accordance with the obligations above.

The arbitrator is not required to make findings of fact or conclusions of law. Any settlement offers are not to be disclosed to the arbitrator [CRC § 1609]. If a party defaults, sufficient evidence must be taken to justify any award made by the arbitrator [CRC § 1610(b)]. Stenographers, court reporters, and recording devices are not permitted at the hearing [CRC § 1614(b)]. Law and motion matters are reserved to the Court [CRC § 1614]. Court files are not permitted to be removed from the Court.

**EVIDENCE:**

All evidence is to be taken in the presence of the arbitrator and all parties except where a party has waived the right to be present or is absent after due notice for the hearing [CRC § 1613(a)].

The rules of evidence governing civil actions apply except:

1. The arbitrator shall receive into evidence, if copies have been delivered to all opposing parties at least 20 days prior to the hearing, written reports of any expert witness, medical bills and records, documentary evidence of loss of income, property damage repair bills or estimates, and relevant police reports [CRC § 1613(b)].

a. Witnesses may be subpoenaed for cross-examination. Repair estimates shall be accompanied by a statement indicating if the property was repaired. The arbitrator shall not consider a police report opinion as to fault.

2. Written statements of witnesses shall be received into evidence if: (1) they are made by affidavit or declaration, (2) copies have been delivered to all opposing parties at least 20 days prior to the hearing, and (3) no party has timely made written demand that the witness be produced in person at the hearing. Matters in the statement which are otherwise inadmissible if the witness were testifying in person are still inadmissible.

3. Deposition transcripts shall be received into evidence but are subject to objections under CCP § 2016(e) if (1) deposition was properly taken, and (2) notice of intention to offer the deposition was delivered to all opposing parties at least 20 days prior to the hearing.

Delivery of a document may be by mail pursuant to CCP § 1013 or by manual delivery. If mailed, the time for delivery of documents, notices, and demands is increased by five (5) days.

Subpoenas are available to compel attendance of witnesses. Failure to attend pursuant to lawful subpoena may be grounds for an adjournment or continuance of the hearing [CRC § 1613(c)].

**CONTINUANCES:**

Continuances may be accomplished by stipulation, but in no event may an arbitration hearing be continued to a date later than 90 days after assignment of the case to the arbitrator, except by order of the Court [CRC § 1607(c)].

**DECISION:**

The award of the arbitrator must be filed in the format provided by the Court within ten (10) days after the conclusion of the arbitration hearing. At the time of the filing of the award, the arbitrator is to serve on all parties or their counsel a copy of the arbitration award and file with the award a proof of service of the award on each party.

**EFFECT OF DECISION:**

Any party, within 30 days after the arbitration award is filed, may request a trial de novo. The 30 days time period may not be extended [CRC § 1616].

**ARBITRATOR'S COMPENSATION:**

For Court-ordered arbitration, the arbitrator is entitled to \$150.00 per case or \$150.00 per day, whichever is greater, as compensation for the arbitrator's services [CCP § 1141.18]. A compensation statement voucher provided by the arbitration administrator's office shall be submitted to the arbitration administrator upon the filing of the award and shall set forth the title and number of the cause arbitrated, the date of the arbitration hearing, and the date of filing of the award or notice of settlement. Failure to timely file the voucher constitutes a waiver of compensation.

**SUPERIOR COURT OF CALIFORNIA**

**COUNTY OF BUTTE**

IN ALL MATTERS ASSIGNED TO ME BY )  
 )  
 )  
THE SUPERIOR COURT FOR ARBITRATION . . . )  
 )  
\_\_\_\_\_ )

**OATH OF ARBITRATOR**

I, \_\_\_\_\_, DO SOLEMNLY AFFIRM THAT I WILL  
PERFORM ACCORDING TO LAW THE DUTIES OF ARBITRATOR; THAT I TAKE THIS OBLIGATION  
FREELY, WITHOUT ANY MENTAL RESERVATION OR PURPOSE OF EVASION; AND THAT I WILL  
JUSTLY TRY ALL MATTERS SUBMITTED TO ME AND RENDER AWARDS ACCORDING TO THE  
EVIDENCE.

\_\_\_\_\_  
Attorney at Law

Subscribed and sworn to before me, this  
\_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

**SHAROL STRICKLAND, Clerk of the Superior Court**

BY: \_\_\_\_\_, DEPUTY CLERK

SUPERIOR COURT OF CALIFORNIA

COUNTY OF BUTTE

vs.

Plaintiff(s),

Defendant(s).

CASE NO.: \_\_\_\_\_

Award of Arbitration

The undersigned, designated Attorney Arbitrator, having heard the case on \_\_\_\_\_, 20\_\_\_\_, makes the following award:

☐ Plaintiff(s) \_\_\_\_\_ shall recover from defendant(s) \_\_\_\_\_ the sum of \$\_\_\_\_\_.

☐ The claim(s) of plaintiff(s) \_\_\_\_\_ is (are) denied as to defendant(s) \_\_\_\_\_.

☐ Cross-complainant(s) \_\_\_\_\_ shall recover from cross-defendant(s) \_\_\_\_\_ the sum of \$\_\_\_\_\_.

☐ The claim(s) of cross-complainant(s) is / (are) denied as to cross-defendant(s) \_\_\_\_\_.

☐ Statutory costs are awarded to \_\_\_\_\_.

☐ Other: \_\_\_\_\_

DATE: \_\_\_\_\_, 20\_\_\_\_

ARBITRATOR



<b>ARBITRATOR'S NAME, ADDRESS &amp; TELEPHONE No.:</b>  Social Security or Federal I.D. No.:	<b>COURT USE ONLY</b>
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF BUTTE</b> *** <input type="checkbox"/> 655 OLEANDER AVE. – CHICO, CALIFORNIA 95926 – (530) 532-7009	
Plaintiff(s):  Defendant(s):	
<p style="text-align: center;"><b>ARBITRATOR'S FEE STATEMENT</b> [CRC § 1608]</p>	CASE NUMBER:

Pursuant to CRC § 1608(c), I hereby submit my Request for Payment of Arbitrator's Fees in the above-entitled matter. I declare that I was the duly appointed Arbitrator and that I fully performed all official responsibilities herein.

Date of Arbitration Hearing: \_\_\_\_\_, 20\_\_\_\_\_.

Time Spent in Hearing:	_____	Hours
Preparation:	_____	Hours
Arbitration Hearing & Preparation:	_____	Total Hours

Date of Arbitration Award: \_\_\_\_\_, 20\_\_\_\_\_.

I HEREBY CERTIFY UNDER PENALTY OF PERJURY, UNDER THE LAW OF THE STATE OF CALIFORNIA, THAT THE FOREGOING IS TRUE AND CORRECT.

DATE: \_\_\_\_\_, 20\_\_\_\_\_

\_\_\_\_\_  
Arbitrator's Signature

I hereby affirm that the above-named Arbitrator has completed all official duties required and has filed the award; and that the requested Arbitrator's Fee is in accordance with California Rules of Court. The requested Arbitrator's Fee in the amount of \$ \_\_\_\_\_ is hereby approved.

DATE: \_\_\_\_\_, 20\_\_\_\_\_

\_\_\_\_\_  
JUDGE OF THE SUPERIOR COURT

## BUTTE COUNTY RULES OF COURT

### LOCAL RULE 9

(Effective Date: 7-1-90)

#### RULE 9 CUSTODY/VISITATION MEDIATION

##### 9.1 - COURT'S POLICY ON CHILD CUSTODY ISSUES

It is the policy of this Court to assure the minor child(ren) have frequent and continuing contact with both parents after the parents have separated or dissolved their marriage and to encourage parents to share the rights and responsibilities of child rearing in order to effect this policy. [Family Code (FC) §3020]

Pursuant to FC §3160, Family Mediation Services will be available in all child custody and visitation disputes. These services will be provided by Butte County Family Court Services and are in lieu of a Family Conciliation Court. (A.D. 7-1-98)

##### 9.2 - POLICY: MEDIATION

It is the policy of this Court that out-of-court resolution of all issues in family disputes is generally preferable to contested hearings. The rules regarding mediation and the rules regarding meet and confer requirements and settlement conferences are to be construed in light of this policy.

All parties to matters involving child custody or visitation shall be interviewed by a mediator prior to any hearing on the issue of child custody/visitation.

Private sector mediation may be used in lieu of the family mediation services of this Court by agreement of both parties.

If during the mediation process a question arises as to the child(ren)'s immediate well-being, (abuse, neglect or safety) the mediator shall immediately [1] refer the case to Children's Services Division of the Butte County Department of Social Welfare for investigation and report, and [2] notify the Court of the action by memorandum.

When proceedings are for post-judgment modification of child custody or visitation and where both parties no longer reside in the county, the Court may consider transferring the matter to a more appropriate venue on its own motion.

Although the Court does not mandate mediation of family issues other than those related to the child(ren), it is preferred that parties and counsel obtain the services of a private sector mediator for negotiation of all non-child custody and visitation issues which they are unable to otherwise resolve.

(A.D. 1-1-01)

### **9.3- DUTIES AND OBLIGATIONS OF THE PARTIES**

(a) Notice of the Mediation Policy: With all motions involving custody and/or visitation, the moving party shall include with the moving papers served on the other party a copy of "Mediation of Family Disputes."  
(Form: RUL-9-CV.010)

(b) In all proceedings where there is a contested issue regarding the custody of or visitation with a minor child, mediation shall be conducted prior to the day of the hearing with Butte County Family Court Services or with an agreed mediation service. In the event the parties have not met with a mediator prior to the hearing, the Court will normally order the parties to schedule a mediation conference and continue the matter until mediation of those issues can be conducted.

(c) The purpose of mediation proceedings shall be to reduce hostility which may exist between the parties and to develop an agreement or make recommendation assuring the child(ren)'s close and continuing contact with both parents, if appropriate. The parties shall make a good faith effort to arrive at an agreement through the mediation process.

(d) Mediation may be available on the day prior to the hearing for parties who have traveled exceptional distances to attend. Prior arrangements for such mediation should be made in such cases to avoid unnecessary travel, or delay of the hearing.

(e) Parties who do not have a pending family law action before the Superior Court may request mediation from Butte County Family Court Services or an agreed private mediation service.

(f) In the event parties participate in informal mediation pursuant to 9.3(e) and no agreement is reached, a recommendation will not be made by the mediator.  
(A.D. 1-1-01)

### **9.4- CONDUCT OF MEDIATION**

(a) The mediation session(s) with the parties shall be held in private and shall be confidential. In all matters in which the mediator who conducted the initial mediation session is asked to testify, or in which a recommendation pursuant to FC §3183 is submitted, privilege and confidentiality shall not apply. Any statements or recommendation which may be made by the mediator shall be subject to direct or cross-examination as to the basis of any such statement or recommendation by any of the parties to the proceedings or by the Court.

(b) If the parties reach agreement during mediation, the mediator shall document in writing the terms of the agreement. A copy of this document shall be submitted to the attorneys and to any unrepresented party. No agreement will be confirmed or otherwise incorporated in an order of the Court unless each party, has affirmed and assented to the agreement in open court or by written stipulation, which shall include the signature of the parties' and counsel of record, if any. An agreement also may be confirmed or incorporated if a party fails to appear at a noticed hearing on the issues involved in the agreement, and has signed the agreement or stipulation.

(c) If any party fails or refuses to mediate issues of child custody or visitation, the other party may request an order for payment of mediation fees and loss of earnings and expenses, if legally permissible.

Rule 9.4 (Continued)

**(d)**The mediator shall have the authority to exclude counsel from participation in the mediation sessions where, in the discretion of the mediator, exclusion of counsel is deemed to be appropriate or necessary. The mediator shall have the duty to assess the needs and interests of the child(ren) involved in the controversy and shall be entitled to interview the child(ren) when the mediator deems such interview appropriate or necessary. The interview of the child(ren) shall be confidential, unless otherwise stipulated by parties or counsel.

**(e)**Separate mediation appointments shall be given at the discretion of the Mediator, unless there are allegations of domestic violence.

**(f)**Telephonic mediations shall not be held in an initial or first-time mediation or with minor children. Telephonic mediations may be approved by the Mediator or the Court with return mediation for parties residing outside a 200 mile radius from Oroville. (A.D. 1-1-02)

## **9.5 - CONTESTED CUSTODY CASES**

**(a) PREFERENCE.** Any case in which custody or visitation remains in dispute after completion of mediation shall proceed to hearing and shall be entitled to calendar preference pursuant to FC §3023.

**(b) TEMPORARY CHILD CUSTODY.**

**1.** Prior to the hearing on an Order to Show Cause or Noticed Motion, it is the policy of this Court not to issue an Ex Parte order changing the child(ren)'s principal place of residence or to deny the access of any parent to the child(ren), except under the most extraordinary circumstances.

**2.** Any application to change the child(ren)'s living situation or to deny access of any person to the child(ren) prior to a full hearing shall include the following:

**A.** reference to the terms of any existing court orders bearing on custody or visitation of the child(ren) (if any);

**B.** the current time-sharing schedule or agreement (if any), and how long the schedule has been in effect;

**C.** any changes in the child(ren)'s place of residence in the past 120 days and the circumstances, including the dates and reasons for all such changes;

**D.** what time-sharing program is proposed;

**E.** the reasons for any proposed changes in the child(ren)'s living situation; and

**F.** other relevant information.

**3.** Factors which may be considered by the Judge when making a temporary order for custody include, but are not limited to, the following:

**A.** The child(ren)'s present living situation, including parent with custody, duration and regularity of residing primarily with such a parent, and duration of residence at the present address;

**B.** The closer the child(ren) are to the ages of majority, the more likely the child(ren)'s preferences will be followed, but the choice must be in their best interest and not be motivated either by reward to the child(ren) or by playing of one parent off against the other;

Rule 9.5 (Continued)

- C.** If either parent has left the home and has taken the child(ren) without the consent of the other or without a Court order, that parent shall state the reasons therefor; and
  - D.** If violence has recently taken place or seems likely, the Court encourages a spouse to leave the home until a Court hearing may be held; the Court will not penalize a parent for doing so.
- 4. The mediator is authorized to make a full or partial recommendation if a full agreement is not reached during the mediation conference.
- 5. The mediator may, at his or her sole discretion, and without either consent of the parties or order of the Court, recommend that an investigation be ordered pursuant to FC §3111, or that other action be taken to assist the parties to effect a resolution of the controversy prior to any hearing on the issues. The mediator may, in appropriate cases, recommend that mutual restraining orders be issued, that a temporary custody and/or visitation order be entered, and/or that counsel be appointed to represent the involved child(ren). (A.D. 1-1-01)

## **9.6 - EVALUATION UNDER FAMILY CODE (FC) §3111**

**(a)** Any case in which custody or visitation remains in dispute after the completion of mediation and after recommendation may be referred back for an evaluation by Family Court Services or to an agreed upon private evaluator, subject to Court approval. Said referral shall be made by stipulation of the parties, upon noticed motion, upon recommendation of the mediator, or recommender, or on the Court's own motion.

- 1. In all matters referred for a child custody evaluation, pursuant to this rule, such evaluation shall be completed by a different individual than the one who has conducted a mediation and/or recommendation between the parties. This provision may be waived by the parties to this action, subject to approval of counsel, if any. Such waiver, if entered, shall be either in written form or stipulated in open court.
- 2. The parties will be ordered, if requested, to pay for any evaluative services consistent with their ability to pay.
  - A.** All written reports pursuant to FC §3111 shall be confidential in nature, and accessible only to the parties, their attorneys and the Court. The report shall be placed in a sealed envelope by the Court and neither the child(ren) nor any individual(s) not a party to the action shall be permitted to read such report or receive copies thereof without an express Order of the Court.
  - B.** Written reports pursuant to FC §3111 shall not be utilized by any person for any purpose other than as set forth in statute, without the express written consent of all parties to the action. This rule does not, however, prohibit its dissemination pursuant to the Special Matter Order pursuant to T.N.G. vs. Superior Court, adopted by this Court and filed August 2, 1991, nor to any party filing a mandated Suspected Child Abuse report concerning the involved minor(s) pursuant to Penal Code (PC) §11166.

Rule 9.6 (Continued)

**3.** The following rules shall apply to all custody evaluations undertaken pursuant to FC §3111:

- A.** Subject to Penal Code §11166, confidentiality of any communications between the involved child(ren) and the evaluator shall be maintained, unless such is knowingly and intelligently waived by the child(ren), subject to the approval of both the evaluator and counsel representing the child(ren), if any.
- B.** Any child(ren) seen with one parent must also be seen with the other, unless that parent makes him or herself unavailable.
- C.** All involved children shall be interviewed separately by the evaluator, unless otherwise determined by the mediator or evaluator.
- D.** No evaluation shall be based upon an interview with only one parent.
- E.** If an evaluation is ordered by the Court, neither parent shall subject the child(ren) to further examination or evaluation by an expert without the approval of the Court or the consent of the other party(ies) to the action and approval of counsel for the child(ren), if any. This does not preclude any counsel for the child(ren) from seeking an independent evaluation of the child(ren) without consent of the other party(ies) to the action, subject to Court approval first obtained.

**(b)** It is the policy of the Court to resolve disputed custody and visitation issues as soon as possible after an evaluation has been rendered by the Family Court Services or by a private evaluator.

**(c)** All written evaluations from the Family Court Services or private evaluators made pursuant to FC §3111 shall be served with proof of service upon the parties or their attorneys. The evaluations shall include a Recommended Order and notice of the procedures contained in (e) below.

**(d)** Prior to preparation of the written custody evaluation and recommendation, the evaluator may, at his or her discretion, or upon the request of one or both of the parties, schedule a conference with the parties, at which time the proposed recommendation and the reasons therefor will be discussed. In the event the parties can agree at that time, a written agreement will be prepared and, if approved by the parties and counsel (*if represented*), such will be executed and filed with the Court.

**(e)** In the event either party objects to the evaluation and recommended order, [s]he shall file with the Court within twenty (20) calendar days a written Notice of Objections, providing endorsed, filed copies to the public agency or private individual preparing same, and the opposing party's attorney of record or the party if unrepresented. The written notice shall state: **[1]** the specific paragraph(s) and language in the Recommended Order objected to by the party; **[2]** the reason(s) for the objection(s); and **[3]** the proposed modification to the Recommended Order.

Rule 9.6 (Continued)

**(f)** Attorneys, the evaluator and the parties shall attend the custody/visitation settlement conference at the scheduled time and place. The following shall be addressed:

1. an attempt to settle all contested custody and visitation issues;
2. the definition of those custody and visitation issues to be tried;
3. determining the amount of time necessary for trial;
4. the setting of the matter on the TRAC calendar [See LR §16.13].

No motion for bifurcation of a custody or visitation issue shall be necessary.

**(g)** In the event no objections to the proposed order are filed within twenty (20) days, as set forth in Paragraph (e) above, the recommended order previously submitted may be signed and filed as an order of the Court if upon review, the Court finds the Recommended Order to be appropriate and in the best interests of the child(ren) involved.

**(h)** If custody and/or visitation issues remain unresolved after the settlement conference, the matter will proceed to trial on those issues.

The Court will not receive the FC §3111 (custody investigation) report in evidence unless the evaluator is available for cross-examination or upon stipulation of the parties. (A.D. 1-1-01)

## **9.7 - CALENDAR: TRIALS**

**(a)** Contested custody/visitation matters are entitled to preferential setting for trial. The custody/visitation issue may be set for settlement conference and trial as soon as the parties have complied with the Court's mediation and evaluation requirements and a written recommendation has been prepared, if appropriate.

**(b)** A party desiring to schedule an early trial date on the issue of custody or visitation shall, at the time of filing the At-Issue Memorandum verify by accompanying affidavit or declaration the following:

1. that custody or visitation is contested;
2. that mediation has been completed and has been unsuccessful;
3. that the parties have completed the FC §3111 evaluation and that a recommendation has been prepared and is available for the Court if appropriate;

Rule 9.7 (Continued)

4. that the recommendation is objectionable, in whole or in part (*listing the differences with the recommendation item by item or attach any previously filed objections, where appropriate*);
5. that another recommendation would better serve the interests of the child(ren) (*reciting the proposed alternative recommendation*) if appropriate; and,
6. that an early settlement conference and trial date are requested solely on the issue of custody or visitation (*and any designated accompanying issues*). (A.D. 7-1-98)

## **9.8- CALENDAR: MOTIONS FOR MODIFICATION**

A motion for modification of either custody or visitation shall be calendared on the Family Law Order to Show Cause calendar. After the parties have completed mediation and the FC §3111 evaluation and an evaluative report has been prepared (*if appropriate*), the report and recommendation may be submitted to the Court pursuant to LR §9.6 (c) above. A party desiring to contest the recommendation shall file objections pursuant to LR §§9.6 (e) and 9.7 (b).

(E.D. 1-1-91)

## **9.9- RESERVED**

(A.D. 1-1-01)

## **9.10 - DEFAULTS AND FC §2336 PROCEEDINGS**

(a) Where the Judgment is taken by default, and there is no attached written agreement of the parties concerning custody and visitation, an attached factual declaration shall set forth the following:

1. Where the party is seeking joint custody, what specific contact with the child(ren) the defaulting party shall have.
2. Where the party is seeking to deny visitation between the child(ren) and the defaulting party, the reason(s) visitation should not be ordered.

(b) In preparing the declaration, the party shall inform the Court when the parties were separated, who has been the primary caretaker of the child(ren) during the past six (6) months and the extent of contact between the child(ren) and the non-caretaker parent during that time.

(E.D. 7-1-90)

## **9.11 - SPECIAL PROBLEMS**

### **(a) UNIFORM CHILD CUSTODY JURISDICTION ACT CASES.**

1. Cases involving the UCCJA (FC §3400 et seq.) generally appear initially on the Family Law Order to Show Cause calendar.



Rule 9.11 (Continued)

2. Counsel should provide written points and authorities and declarations or affidavits in support of their jurisdictional contentions at the time of hearing. These declarations or affidavits shall contain a history of any other state's involvement with the case. The parties shall provide to the Court properly certified copies of any foreign decrees. Each party shall file a current Judicial Council Form MC-150.

**(b) HEARINGS.**

1. The parties shall keep Butte County Family Court Services staff informed as to dates of any contested hearing that may require the mediator to testify so that they may plan their schedules accordingly. Normally a confirming letter will suffice for notice. Mediators shall not be subpoenaed, but will be available to testify upon the request of the parties, counsel or the court.

2. The Court will decide whether and on what conditions it will interview any minor child(ren). The Court may consult with the attorneys, parties or evaluators in reaching this decision. Child(ren) who are the subject(s) of the custody/visitation dispute shall not be in the courtroom without the Court's prior knowledge and consent.

**(c) APPOINTMENT OF COUNSEL FOR CHILD(REN).**

1. In any proceeding covered by these rules, the Court, if it would be in the best interests of the minor child(ren), may appoint private counsel to represent the interests of the child(ren) pursuant to FC §3150 et seq.

2. When the Court appoints counsel to represent the child(ren), counsel shall receive a reasonable sum for compensation and expenses, the amount shall be determined by the Court. Such amount shall be paid by the parents in such proportion as the Court deems just. Where the parents are indigent, counsel will be paid pursuant to LR §14.

3. Nothing shall prohibit the mediator from advising the Court that private counsel for the child(ren) should be appointed.

Rule 9.11 (Continued)**(d) EX PARTE CONTACT PROHIBITED**

No party or attorney for a party shall initiate contact with a Court-appointed mediator or investigator, orally or in writing, to discuss the merits of the case without notice to the other party and an opportunity to be present or to receive a copy of a written communication. Nothing in this rule shall prohibit the Court-appointed mediator or investigator from contacting either party or attorney with reference to, or requests for, specific information. This does not preclude the parties from furnishing copies of pleadings to the mediator which are concurrently served on the opposing party or which have already been filed with the Court.

(A.D. 1-1-01)

**9.12 - MEDIATION PURSUANT TO FC §3170**

**(a)**In all matters involving initial mediation of child custody disputes pursuant to FC §3170:

1. The assigned mediator shall have the absolute duty to disclose to both parties any prior or current, personal or professional, contact said mediator may have had with either party or members of their immediate families, and the particulars thereof, as well as any prior or current, personal or social, relationship with the attorney representing either party, if any. The assigned mediator shall also disclose to both parties any other factors which might tend to affect said mediator's professional objectivity. After such disclosures, but prior to the commencement of the mediation session, the parties to the mediation shall be given the opportunity to request a different mediator, and any requests in this regard shall be honored. Only one peremptory challenge per party to the assigned mediator shall be permitted.

2. In the event all professional employees of Family Court Services are disqualified or disqualify themselves pursuant to this rule, the parties shall select a private mediator or evaluator immediately, and such disqualification(s) shall be reported to the Court prior to the time set for hearing. Should the parties be unable to select a private mediator or evaluator, the Court shall make such selection of such private mediator or evaluator. Costs or fees, shall be paid as may be determined by the Court.

**(b)**In those matters in which a written recommendation pursuant to FC §3183 has been ordered, such recommendation shall be prepared by the Mediation Services staff member who most recently conducted mediation with the parties. No challenges to the assigned professional staff member shall be permitted.

**(c)**In those matters referred to the Family Court Services for a child custody investigation, report, and recommendation pursuant to FC §3111, such report and recommendation shall be completed by a different individual than the one who has conducted mediation between the parties within the previous twelve (12) months. This provision may be waived by the parties to the action subject to approval of counsel, if any. Such waiver, if entered, shall be either in written form, or stipulated in open court.

**(d)**Notwithstanding the above provisions, any professional staff member of the Family Court Services may, at any time, recuse him or herself from a given mediation, child custody evaluation, or recommendation if [s]he believes that professional objectivity has been compromised. [FC §3163]

Rule 9.12 (Continued)

**(e)** Complaints concerning Family Court Services professional personnel shall be dealt with as follows:

1. Parents, parties and/or attorneys desiring to file a complaint regarding the mediation process or an individual mediator may request a copy of the Family Court Services client Complaint Form prepared by the Administrative Office of the Courts, Family Court Services Office. These forms are available in the Mediation, Court Clerk or Family Law Facilitator's Offices. Subsequent to filing the complaint form, parties may request an interview with the Director of Family Court Services.
2. Within ten (10) working days after receipt of the written complaint form, the Family Court Services Director will conduct an appropriate investigation of the matter including consultation with the mediator (or employee) and make a written response to the complainant as to an appropriate corrective response, if any. A copy of the response shall be forwarded to the Court Executive Officer.
3. The complainant may appeal the Director's action to the Supervising Family Law Judge, who shall conduct such investigation as he/she deems appropriate. The Judge will respond in writing within sixty (60) days thereafter.
4. If the complaint pertains to the Family Court Services Director and is regarding the content or quality of the mediation process, the procedure outlined above shall be followed as in paragraph 3 and shall include a copy forwarded to the Court Executive Officer.
5. If the complaint pertains to the Family Court Services Director and is regarding conduct, the Court Executive Officer shall conduct the investigation described in paragraph 2 and make written response to the complainant. (A.D. 1-1-01)

### **9.13 - MEDIATION ORIENTATION**

All parties involved in contested custody and/or visitation issues shall attend a mediation orientation program prior to their mediation appointment.

(E.D. 1-1-01)

## **MEDIATION OF FAMILY DISPUTES**

### **I. IN CHILD CUSTODY, SHARING, AND VISITATION CONFLICTS**

In disagreements between parents over custody, sharing, and visitation with minor children, it is the law of California and the policy of this Court to require mediation, in an effort to bring the parties into agreement. Unresolved conflict over children invariably causes them harm and confusion. Bringing such conflict into court seldom serves the best interests of the children or the parents.

Mediation offers an opportunity for parents to resolve their differences concerning the children with the guidance of an impartial, trained facilitator, the mediator. The mediator helps to deal with emotional and communication barriers, to determine the true needs of the children and parents, and to develop workable options agreeable to all concerned. This process is private, confidential, and avoids the public airing of hostile accusations in a courtroom. Above all, it helps to keep the children out of conflict and creates a more cooperative attitude between parents who must continue to work together to raise their children after the divorce.

If an agreement is reached between the parties, the mediator will prepare it in writing and submit it to the Court and/or parties and their attorneys. If there is no agreement, this also is reported to the Court. The Court may then refer the case back to the mediation service or to other consultants for further investigation and recommendations as to what custody and visitation orders would be best for the children. If the parties still fail to agree, the Court will then decide these arrangements for the children and parents.

In every case, the Court's primary concern is for the best interests of the children. The personal desires and attitudes of the parents are secondary.

### **II. IN PROPERTY AND SUPPORT DISAGREEMENTS**

Mediation is not required on these issues, but can be very effective in bringing agreement, if the parties are willing to meet with a private mediator. Contested court proceedings usually increase hostilities between parties ending a marriage. Stress, acrimony, delay, and expense can be minimized with mediated agreements, and ongoing interactions between the parties can be improved by the greater communication skills and reduced hostility which often result from reaching agreement. Mediated agreements also reduce the heavy caseload of this Court and make room for cases which cannot be resolved out of court.

This Court, therefore, encourages parties and their attorneys to consult with a private mediator to determine the appropriateness of mediation in their situation. Strong feelings and factual or legal issues need not prevent a negotiated agreement, with the help of a skilled mediator.

### **III. HOW TO LOCATE A MEDIATOR**

The Court offers mediation of custody and visitation issues through Family Court Services, regardless of the parties' ability to pay. This service is located at One Court Street, Oroville. Phone \*\*\* (530) 532-7003 for an appointment. Private mediation through private mediators, counselors or attorneys is an acceptable alternative if agreed upon by the parties.

## BUTTE COUNTY RULES OF COURT

### LOCAL RULE 12

(Effective Date: 7-1-98)

### PROBATE RULES

#### RULE 12 PROBATE RULES

##### 12.1 - GENERAL

###### (a) RESERVED

###### (b) FORM OF PAPERS PRESENTED FOR FILING.

1. It is the duty of the attorney (*or the party appearing without an attorney*) to prepare and submit the supporting documents and proposed orders for all matters. All such documents shall include the time and date of the hearing, typed under the caption of the front page.
2. If a Judicial Council form is available for the particular form of relief sought, that form shall be used. The form is to be used in the same format as prescribed and printed by the Judicial Council (i.e. printed in a rolled format so that the reverse side of the document can be read by "rolling" the form as opposed to turning it over). Only current Judicial Council forms are acceptable for filing.
3. A proposed form of order is to be submitted with each petition or motion for relief. Any petition or motion filed without such proposed form of order will not be calendared for hearing until such time as the proposed form of order is submitted.

###### (c) PROCEDURES FOR EX PARTE MATTERS

1. If the ex parte matter is contested or there is a need to converse with the Court, the petition shall so specify. If necessary, the Clerk will contact the attorney of record so the matter can be added to the next available calendar for hearing.
  - (a) All applications for ex parte orders must contain a list of any and all requests for special notice which have been filed in the proceedings or contain an allegation that no special notice has been requested. If any such notice has been requested, a waiver must accompany the petition.
  - (b) If it is reasonably likely there will be a dispute or contest as evidenced by documents on file in the proceeding, then all parties must be notified pursuant to California Rule of Court §379 of the time and place where the application for the ex parte order will be made. Proof by the attorney's declaration of such notification shall accompany the petition.
2. For good cause, the Court may require a noticed hearing before approval of any matter.

(A.D. 7-1-99)

## **12.2 - BOND OF PERSONAL REPRESENTATIVE**

### **(a) AMOUNT OF BOND.**

1. Unless the requirements of Prob. §8481 are met, a bond will be required of every person appointed as a personal representative. As a general policy, the Court will require at least a \$10,000 minimum bond even if the value of the estate is less than \$10,000.
2. A petition to appoint a personal representative should set forth the estimated value of real property, personal property, and the estimated annual income from all property.
3. If the estimated value of the assets of the estate is not known at the time of the filing of the petition for appointment, ordinarily the personal representative must appear at the hearing to testify as to the estimated value of estate assets.
4. If written waivers are attached to the petition, bond will ordinarily be waived by the Court pursuant to Prob. §8481, provided all heirs or beneficiaries are competent to act. If any such persons are incompetent (*e.g., minors*), an appropriate representative must waive bond on their behalf.

### **(b) METHODS OF REDUCING BOND.**

1. There are three basic methods for obtaining a reduction of bond.
  - A. The first is to deposit or invest a specified amount of assets before the order of appointment is made, obtain a receipt and agreement to hold the assets in a blocked account, and offer the receipt and agreement in evidence when the petition for appointment comes on for hearing. The facts upon which the reduced bond is sought should be set forth, either in the original petition for appointment or in a separate petition to be heard simultaneously.
  - B. The second is to obtain in the order appointing the representative, a provision that if assets are deposited or invested in blocked accounts the bond may be fixed in a reduced amount. A receipt for the deposit must be obtained from the depository and filed with the Clerk. The Clerk is then authorized to issue letters upon the filing of a bond in the reduced amount.
  - C. The third is to obtain a reduction of bond after the representative has qualified and entered upon the administration of the estate. If a deposit and reduction in the amount of the bond is anticipated, this may be covered in the original order of appointment; if not, a subsequent petition should be filed. It is often convenient to present this petition with the first annual account. Petitions to decrease bond are subject to a hearing with notice given to all heirs or beneficiaries.
2. **LIMITATION OF AMOUNT ON DEPOSIT WITH ONE FINANCIAL INSTITUTION:** Monies in blocked accounts shall not exceed the limit of Federal Deposit Insurance Corporation insurance for each individual bank or savings and loan association. The attorney shall immediately file an ex parte petition for an order authorizing establishment of additional blocked accounts into which funds exceeding the insurance limit shall be deposited.

Rule 12.2 (Continued)

**3. CORPORATE AND INDIVIDUAL EXECUTORS:** A corporate executor cannot assume responsibility for the acts of individual co-executors. Individual executors must provide bond as required by law. If a deposit is made under the provisions of Prob. §8483 to reduce bond, it must be made jointly by the corporate and individual co-executors.

**4. BOND OF NONRESIDENT PERSONAL REPRESENTATIVE.** A personal representative who is a nonresident of California and who is nominated to serve without bond may nevertheless be required to post such bond as the Court may require. Ordinarily, the amount of the bond will be the minimum bond in effect in Butte County which is currently \$10,000. However, in the Court's discretion, the maximum amount may be imposed, which is the value of the personal and real property, plus the amount of estimated income for one year for both the personal and real property. This rule applies even if there are co-executors and one or more are California residents. In the case of a personal representative who is also the sole beneficiary, the same rule applies for the protection of potential creditors.

**5. MULTIPLE REPRESENTATIVES.** When multiple representatives are appointed by an order which directs that "letters shall issue to them", the Clerk will not allow less than all to qualify and have letters issued separately. If qualification of less than all is desired, it must be so provided in the order of appointment.

**6. DISTRIBUTEES' BOND.** This Rule addresses the bond required by a personal representative to administer an estate. In certain circumstances, such as a preliminary distribution, a bond may be required of the distributee. (See Prob. §11622) (E.D. 7-1-98)

## **12.3 - SALES BY PERSONAL REPRESENTATIVES**

### **(a) SALES OF REAL PROPERTY - APPRAISAL WITHIN ONE YEAR.**

1. Probate Code §10309 requires that real property to be sold in an estate proceeding must be appraised within one year prior to the date of the court confirmation hearing. Probate Code §8802 requires that the first appraisal of all property be as of the date of death. All appraisals must reflect the fair market value of the property.

2. When the date of the confirmation hearing is more than one year after date of death, a reappraisal for sale (*on the Judicial Council form*) must be filed with the Court before the confirmation hearing can proceed. Reappraisals must be made by the probate referee unless appointment of the referee has been waived by the Court.

3. The following phrases should be inserted in the reappraisal for sale immediately after the legal description of the real property:

Appraised as of date of death  
[insert month, day and year] \$ \_\_\_\_\_

Appraised as of [insert CURRENT  
month, day and year] \$ \_\_\_\_\_

### Rule 12.3 Continued

4. The sum offered for the property must be at least 90 percent (90%) of the appraised value of the property within one year prior to the confirmation hearing. (Prob. §10309)

#### (b) BOND ON SALE OF REAL PROPERTY.

1. Petitions for confirmation of sale of real property shall set forth the amount of bond in force at the time of the sale and the amount of property in the estate which is required to be covered by a bond. (See Prob. §8482) If no additional bond is required or if bond is waived, that fact should be alleged in the petition.

2. Personal representatives subject to a bonding requirement who have full authority under The Independent Administration of Estates Act shall post their initial bond upon qualification in an amount sufficient to cover all personal property, income for one year from all sources, and the estimated proceeds of the sale of the real property. (See Prob. §10453)

#### (c) BROKERS' COMMISSION ON SALE OF REAL PROPERTY.

1. **Improved Property:** Upon the confirmation of sale of improved real property, the Court ordinarily will allow a broker's commission not to exceed six percent (6%), or such lesser percentage as has been negotiated between the personal representative and the broker subject to net sale amount.

2. **Unimproved Property:** A broker's commission not exceeding ten percent (10%) of the first twenty thousand dollars (\$20,000.00), eight percent (8%) of the next thirty thousand dollars (30,000) and five percent (5%) of the balance of the sales price, ordinarily will be allowed for the sale of unimproved real property. The Court will determine, in each instance, whether property is "unimproved property".

3. Agents or brokers bidding or overbidding on their own behalf or on behalf of an entity of which they are part owner will not be allowed a commission. (Prob. § 10160.5)

4. The Court will not consider whether a broker is employed when receiving overbids.

5. **Divisions of Commissions.** Counsel is referred to Prob. §§10160 et seq.

#### (d) CASH DEPOSIT TO ACCOMPANY BID ON REAL PROPERTY.

1. Bids for the purchase of real property shall be accompanied by a minimum of ten percent (10%) of the amount of bid. When an overbid is made in court, the bidder shall submit cash, money order or certified check at the time of the hearing in the amount of ten percent (10%) of the minimum overbid. (*The minimum overbid is an increase over the bid returned to the Court by ten percent (10%) of the first ten thousand dollars (\$10,000) and five percent (5%) of the balance of the sales price.*) Overbids shall be in accordance with Prob. §10311.

2. At the request of the attorney for the estate selling the real property, or on the Court's own motion if good cause exists, the Court may relax the requirements set forth above. The petition for confirmation of sale or the request made in open Court should state the reasons for the lower deposit (*e.g., all-cash financing by the Veteran's Administration, or by Cal-Vet or by some other governmental agency.*)



Rule 12.3 (Continued)

**(e) NOTICE OF SALE OF PROPERTY SOLD.** Notices and returns of sale should provide a common as well as a legal description of the property sold, as well as the Assessor's Parcel Number.

**(f) TERMS TO BE STATED IN NOTICE OF SALE OF REAL PROPERTY.**

1. Counsel should use extra care in wording of the published notice of sale. If the property is being sold subject to an encumbrance, the notice should so state. (See *Mains v. City Title Insurance Co.*, 34 Cal.2d 580 (1949) It is advisable that the notice call for "[c]ash or cash and such credit terms and conditions as the Court may approve."

2. The terms of the sale shall be consistent with the terms stated in the notice.

**(g) DISCLOSURE OF EXTRAORDINARY COSTS ON SALE OF REAL PROPERTY.**

1. The petition shall include a full disclosure of all extraordinary costs which the estate will incur as a result of the sale. Such costs include, but are not limited to, termite and other repairs, lender's "point," loan fees and nonrecurring closing costs. The exact amounts required or the maximum which the estate will be required to pay shall be disclosed in the petition and included in the order.

2. Extraordinary costs will be deducted from the gross bid, and the resultant "net" will be used for the following purposes:

- A. Determination if the sale is within ninety percent (90%) of appraised value;
- B. The base figure against which overbids are made; and
- C. The real estate broker's commission.

The above amounts shall be set forth in an attachment to the petition.

**(h) NOTICE OF CONFIRMATION HEARING.** In addition to the requirements of notice contained in Prob. §10308(c), notice of the Court hearing for confirmation of a sale of real property shall be mailed at least fifteen (15) days prior to the hearing date to all heirs and beneficiaries who may have an interest in the subject real property.

**(i) APPEARANCE BY BIDDER.** Counsel should advise the original bidder, together with any potential bidders and their representatives, to be in Court at the time the petition for confirmation of sale is heard.

**(j) EXCLUSIVE LISTINGS.**

1. Personal representatives with authority to administer the estate under the Independent Administration of Estates Act need not obtain a Court order to enter into an exclusive listing for real property.

2. Personal representatives who determine it is necessary or advantageous to seek such a Court order shall observe the following:

- A. Such petitions shall be granted only where a clear showing of necessity and advantage to the estate is made. Ordinarily, these petitions will be granted ex parte. Facts indicating necessity and advantage might include: past unsuccessful exposure, condition of the property and/or neighborhood, out-of-country residence of personal representative, or a contract which pre-dates the establishment of the court proceeding.

Rule 12.3 (Continued)

**B.** The petition and proposed order shall also include the name of the broker, address of the property, the fact that the Court sets commissions and that they are payable only if the sale is confirmed, and that all commissions are payable in accordance with Prob. §10160 et seq. The duration of the contract must be specified. Ordinarily, the Court will not approve a term exceeding ninety (90) days.

**C.** A copy of the listing agreement should be submitted with the petition. The listing agreement must conform to the conditions set forth above and shall further set forth in detail the obligations and duties of the broker, including but not limited to the requirement to list on Multiple Listing Service(s), place signs and advertise in newspaper[s].

**D.** Extensions of listing agreements shall follow the above procedures.

**(k) SALES OF PERISHABLE OR DEPRECIATING PROPERTY.** If the Estate contains perishable or depreciating property, it should be disposed of promptly. If there has been an unreasonable delay in disposing of perishable or depreciating property, the Court may hold the personal representative accountable for the decreased value of the property.

**(l) SALE OF PROPERTY SPECIFICALLY DEVISED OR BEQUEATHED.** On a sale of property specifically devised or bequeathed, either notice of the time and place of the hearing of the return of sale shall be given to the specific devisee or legatee, or the consent of such devisee or legatee to such sale shall be filed with the Court.

**(m) SALE OF SECURITIES.**

**1. Subject to Order of Court.**

**A.** A verified petition for authorization of sale of stocks, bonds or other securities described in Prob. §10200 must contain an allegation regarding any request for special notice and compliance with such request and one or more of the following:

- (1)** Statement as to necessity for sale, giving reasons, i.e., taxes, expenses of administration, indivisible number of shares, etc.
- (2)** Consent or request of heirs; if the securities are specifically bequeathed, the petition should so allege and the written consent of the legatee should be filed.
- (3)** An allegation that a power of sale is conferred by the will.

**B.** If Securities are not listed on an established stock or bond exchange, they may be sold at a minimum price per share or bond, based on a recent market quotation, set forth in the petition. The market quotation may be obtained from financial publications or from securities brokers. If such securities are “closely held,” or there are no recent market quotations available, the petition should set forth the basis for fixing the minimum sales price (*e.g., inventory and appraisal value*).

**2. Subject to Independent Administration of Estates Act (Prob. §§10400 et seq.)**

**A.** A personal representative with authority to administer the estate under The Independent Administration of Estates Act may sell securities listed on an established stock or bond exchange and other assets referred to in Prob. §10537, when sold for cash, without court order. The sale shall be reported in the account and report filed by the personal representative.

Rule 12.3 (Continued)

**B.** Notwithstanding the above, real or personal property may be sold in accordance with the provisions of Prob. §10400 et seq.; provided, however, that any person objecting to a proposed action under Prob. §10400 et seq. shall give notice to the personal representative at least forty-eight (48) hours in advance if he or she petitions the Court for an order restraining such sale, and the petitioner must show good cause.

(E.D. 7-1-98)

## **12.4 - COMPENSATION OF PERSONAL REPRESENTATIVES AND THEIR ATTORNEYS**

### **(a) COMMISSIONS AND FEES MUST BE FIXED BY COURT**

1. There is no authority for payment of any commissions or fees in advance of the court authorizing such payment. Where commissions or fees are paid in advance of court authorization, at the time of the accounting or other request for approval of compensation, the Court ordinarily will require an appearance by counsel or declaration stating the reasons therefor. The Court may require the personal representative or the attorney respectively to pay interest at the applicable legal rate from the date of payment to the date of the order authorizing the same, or may impose a surcharge, or may impose both interest and a surcharge.
2. When requests for fees are for services performed, the detail must reflect that time which was spent by the attorney, that spent by a paralegal, and that spent by a secretary. For each such person performing services for which compensation is being requested, the hourly rate charged for each such person or classification is to be set forth. The qualifications of a "paralegal" are to be set forth whenever fees are requested for services performed by a paralegal.
3. All contingency fee contracts to which the personal representative is a party, shall be submitted to the Court in advance for approval. A copy of the contingency fee contract shall be attached to the petition requesting approval.

### **(b) COMPENSATION FOR EXTRAORDINARY SERVICES**

1. **Application for compensation for extraordinary services must include detail of what was done, and how much time was spent by whom, in performing services for the ordinary fee. Under ordinary circumstances, extraordinary fees will not be awarded where the time spent in ordinary representation, plus the time spent in performing the extra ordinary services, does not exceed the statutory fee for the estate.**

Rule 12.4 (Continued)

2. Applications for fees or commissions for extraordinary services shall be accompanied by a complete statement of facts upon which such application is based and shall specify the amount requested for each item of service, not merely a “reasonable amount.” The services claimed to be extraordinary shall be described in detail, including dates, time spent, necessity for the work, complexity of legal and/or factual issues and results accomplished. Submission of itemized time sheets by themselves will ordinarily not be sufficient to establish a claim for extraordinary services. Each specific area or item of extraordinary service should be segregated into different categories, such as litigation, sale of real property (*or where applicable two categories for two sales of real property*), preparation of federal estate tax return, other tax work, etc. Where applicable, each category of extraordinary service should be segregated into subcategories such as correspondence, discovery, settlement discussions, trial proceedings, etc. For each category of service, specify the total number of hours spent by each attorney or paralegal and specify the hourly rate of each individual and provide some description of the experience and expertise of each individual providing extraordinary service. All information should be provided in a declaration or declarations under penalty of perjury.

3. Compensation for extraordinary services ordinarily will not be approved before the final accounting except in cases where it is shown to the Court’s satisfaction that the estate or heirs will benefit, e.g., where it would be beneficial to reduce income taxes in a given fiscal period, or where ongoing litigation precludes presentation of a final accounting and attorneys must be retained or compensated to represent the estate in ongoing litigation. The Court ordinarily will allow extraordinary compensation for representing the estate in litigation outside of the regular administration of the estate upon a properly noticed petition upon completion of the service. Upon a proper showing, the Court may authorize progress payments prior to completion. Where the attorney or personal representative requesting a progress payment prior to completion of extraordinary work believes that public disclosure of the information required by subparagraph 2 immediately above may adversely affect the estate’s interest in ongoing litigation, the petitioner may include an allegation in the petition stating why the detailed information has been deleted from the petition and that said detailed information is concurrently being filed with the Court in a sealed envelope with a request for an in camera inspection. If it is shown to the satisfaction of the Court that said detailed information may adversely affect the estate’s interest in ongoing litigation, the Court will ordinarily order that the matter remain under seal until the resolution or termination of the ongoing litigation.

4. Extraordinary compensation and costs of a will contest before probate, a petition to revoke a will after probate, and/or a petition to determine persons entitled to distribution from the estate will not be allowed from the estate unless it is shown to the Court’s satisfaction that the personal representative was under a legal obligation to defend or prosecute such contest or proceeding or that the heirs and beneficiaries received a benefit so that on distribution they bear the compensation and costs in proportion to their distributive shares. (See Estate of Pryor 51 Cal.App.2d 735 (1942))

5. When evaluating a request for extraordinary compensation, the Court may consider whether the statutory compensation is sufficient to compensate adequately for all services that have been rendered and may request a declaration of the attorney or the personal representative substantiating all services required.

Rule 12.4 (Continued)

**(b) EXPENSES OF ACCOUNTING MAY BE DEDUCTED FROM THE PERSONAL REPRESENTATIVE'S STATUTORY COMPENSATION.** The personal representative may employ tax counsel, tax auditors, accountants, or other tax experts for the preparation of tax returns and for the other tax-related services. To the extent that the personal representative utilizes the services of such counsel, auditors, accountants, or other experts to perform ordinary accounting and bookkeeping services, including the preparation of the schedules for court accountings and pays for such services from the funds of the estate, the Court may deduct any such sums so paid from the funds of the estate from the personal representative's statutory commission.

(E.D. 7-1-98)

**12.5 - RESERVED**

(E.D. 7-1-98)

**12.6 – RESERVED**

(E.D. 7-1-98)

**12.7- PRELIMINARY AND FINAL DISTRIBUTION**

**(a) FORMS OF DECREES.** A decree of distribution shall be drawn so that the full extent of the decree may be determined without reference to the petition on which it is based or to other documents, such as to the decedent's will. If the distribution includes any interest in real property, the legal description shall be included in the body of the decree or in an attachment incorporated by reference.

**(b) DISTRIBUTION TO MINORS OF CASH UP TO \$20,000.00.**

1. Court policy requires that any cash distributed to a minor be placed in a blocked account at a bank or savings and loan association. Withdrawals from such account shall be allowed only pursuant to a court order. Before the Court will order such a distribution under Prob. §3401, the written assurance required under §3401(c)(2) must be filed with the Court. [See Judicial Council Forms MC 355 & MC 356]
2. The personal representative shall file a receipt acknowledged by the financial institution indicating the deposit of cash into a blocked account.
3. Ordinarily, withdrawals requested during minority may be obtained ex parte upon a showing of good cause. The Court will treat all such requests in a conservative manner in order to preserve the funds for the minor's use upon reaching majority.
4. When the minor reaches age eighteen (18), ex parte application may be made to the Court for an order to release the funds directly to the beneficiary. A certified copy of the birth certificate shall be attached to the petition.
5. In the absence of a guardianship, the estate action number may be used for the filing of documents pertaining to the assets distributed under this section.

(A.D. 7-1-02)

## **12.8 - RESERVED**

(E.D. 7-1-98)

## **12.9 - RESERVED**

(E.D. 7-1-98)

## **12.10 - CONSERVATORSHIPS**

### **(a) RESERVED**

### **(b) COURT INVESTIGATOR.**

1. In all cases, the petitioner or his or her attorney must submit a completed Court Investigator Information Sheet to the Office of the Court Investigator at least forty (40) days prior to the hearing for appointment. This sheet shall be left with the Clerk's Office at the time of the filing of the petition for appointment of a conservator.
2. The provisions of the Probate Code concerning the duties of the Court Investigator apply whether or not the proposed conservatee is the petitioner, [contrary to Probate Code §1826(o).]
3. The Court Investigator must be informed immediately of any change of address for the conservatee, the conservator or any attorney of record. This may be accomplished by submitting a new Court Investigator Information Sheet.
5. After filing, the Court's file will be submitted to the Court Investigator for his use.
6. Assessment for the cost of the Court Investigator's investigation shall be paid as ordered by the Court. Prob. §1851.5 permits the county to waive or defer such fee in case of hardship. Assessments will be billed to the estate or, where applicable, to a trust where the conservatee is a beneficiary. Conservator shall provide the Court Investigator's Office with the current address of the trustee of any such trust.
7. Assessments shall be paid to the Central Collections Department.
8. Original plus one copy required of the following at the time of filing for use by the Court Investigator: Petition for Appointment, Confidential Supplemental Information, Confidential Screening, Court Investigator's Information Sheet, doctor reports and Accountings.

### **(c) TEMPORARY CONSERVATORSHIP.**

1. Ordinarily, no petition for appointment of a temporary conservator will be considered by the Court prior to the filing of a petition for appointment of a permanent conservator.
2. The petition for appointment of a temporary conservator may be brought ex parte, provided that the provisions for notice to proposed conservatee required by law are satisfied, either by giving notice to the proposed conservatee or by submission of a declaration showing facts sufficient to allow the Court to determine that good cause exists to eliminate or alter the notice requirements and provided that the following information is submitted:
  - A. The original and copy of the petition and proposed order;
  - B. A detailed statement of facts in the petition establishing the necessity for the temporary conservatorship; and
  - C. An endorsed, filed copy of the petition for appointment of the permanent conservator.

Rule 12.10 (Continued)

**D.** If the attorney is informed that the petition for appointment of a permanent conservator will be contested, all known potential objectors shall be notified at least forty-eight (48) hours in advance of the time and place the petition for appointment of the temporary conservator will be presented. However, if facts are found which make it clear that the notice required by this section would tend to adversely affect the conservatee or the conservatee's estate, notice to potential objectors may be waived upon a showing of exigent circumstances.

**3.** Ordinarily, the Court will require a bond for temporary conservators of the estate.

**4.** Letters of temporary conservatorship expire on the date of the hearing on the appointment of the permanent conservator or thirty (30) days after appointment of the temporary conservator, whichever is earlier, unless the Court extends the termination date pursuant to Prob. §2257.

**(d) INDEPENDENT EXERCISE OF POWERS.** No powers specified in Prob. §2591 will be granted in the absence of a clear and convincing factual showing that the grant of each power requested is needed to administer the estate, and that the grant of such power is for the advantage, benefit and best interests of the estate.

**(e) CONDITIONS FOR APPOINTMENT OF INDIVIDUAL CONSERVATORS.**

**1. BOND OF CONSERVATOR.** Bond for an individual conservator of the estate shall not be waived. Under special circumstances, the Court in its discretion may order a reduced bond where the conservatee, having sufficient capacity to do so, has waived or requested bond amount. Bond of the conservator may be reduced by deposit of assets into block accounts.

**2. HANDBOOK.** Prior to the hearing for appointment of conservator, the proposed conservator shall purchase the "Handbook For Conservators" along with the "Local Supplement to Handbook For Conservators" at the Clerk's Office.

**3. DUTIES OF CONSERVATOR.** *A completed form "Duties of Conservator" and "Confidential Conservator Screening Form" (JC Form GC348 and GC314) shall be filed simultaneously with the petition for appointment.*

**(f) ALLOWANCE OF FEES IN CONSERVATORSHIP PROCEEDINGS.**

**1.** No fees will be ordered paid in conservatorship proceedings until the filing of the inventory, but in no event until the expiration of ninety (90) days from the issuance of letters, pursuant to Prob. §§2640-2642.

**2.** Conservators of persons or estates or both and attorneys may petition the Court for just and reasonable compensation earned to the date of filing the petition. The petition for compensation shall set forth the hours spent and services performed by the conservator, the attorney and any paralegal. At the time of filing the first accounting, the conservator and attorney (and the attorney on behalf of the paralegal) may petition the Court for compensation, or additional compensation earned from the date of a prior award, by setting forth the hours spent and the services performed. Ordinarily, reasonable compensation for conservators shall not exceed thirty dollars (\$30) per hour.

Rule 12.10 (Continued)

3. Fees for services which could ordinarily be provided by someone of less skill than the conservator (such as running errands, shopping and the like) will be compensated at a rate which one might expect for the performance of such duties rather than at a rate which might be appropriately paid to the Conservator for services which require the skill, training and expertise of a conservator.

A. In the event the attorney for a conservator performs some of the administrative and bookkeeping functions normally performed by the conservator, the attorney may be awarded a larger amount of the combined fees and the conservator allowed a smaller portion thereof so that the total compensation awarded is no larger than that provided for under the guidelines set forth above.

4. Where all or a portion of the fee awarded exceeds cash on hand in the estate, the Court may, in appropriate circumstances, issue its order imposing a lien for fees on any or all of the assets in the estate. Ordinarily, enforcement of the lien will be deferred until the assets of the estate subject to the lien have been liquidated for reasons other than the satisfaction of the unpaid fee.

5. To be valid, contingent fee contracts with an attorney require prior court approval. It is advisable for the attorney to petition the Court for its approval prior to rendering services.

6. The title of the petition embodying an application for the payment of fees and of the notice of hearing of such petition shall include a reference to the request.

7. Compensation to an attorney representing a conservatee may be ordered at the conclusion of the hearing on the appointment of the conservator.

**(g) PRIVATE PROFESSIONAL CONSERVATORS.**

1. **REGISTRATION.** All parties who fit the definition of a Private Professional Conservator as described in Prob. §2341 must register with the Clerk's Office. Contact the Clerk's Office for the current fee. One set of fingerprint cards and a Certificate of Registration of Private Professional Conservator are required when registering.

**(h) APPOINTMENT OF LEGAL COUNSEL.** Appointment of legal counsel pursuant to Prob. §§1470 and 1471 is made in the following manner:

- A. If the conservatee or proposed conservatee is developmentally disabled or indigent, the Butte County Public Defender is appointed;
- B. If the conservatee or proposed conservatee is not indigent, **[1]** Legal Assistance for Seniors is appointed if the conservatee or proposed conservatee is over the age of sixty (60) years, or **[2]** if under the age of sixty (60), an attorney's name is obtained through the Court list of attorneys available for appointment.

If a conservatee or proposed conservatee has retained legal counsel independently, the representation is subject to approval by the Court.

(A.D. 1-1-03)



# BUTTE COUNTY RULES OF COURT

## LOCAL RULE 13

(Effective Date: 7-1-89)

### RULE 13 DOCUMENTS PRESENTED FOR FILING

#### 13.1 - FAX FILING AND SERVICE

Authority - these rules are adopted in accordance with the provisions of California Rules of Court (CRC), Rules 2001 through 2009, and apply to civil, and family law proceedings filed at the Butte County Courthouse and Chico Courthouse only.

(a) A party may transmit a document by fax to a fax filing agency for filing with the Court. (CRC 2005).

(b) A party may file by fax directly with the Court. A fax filing coversheet [JC Form 2009] shall be used. (CRC 2006 and 2009).

(c) The fax filing telephone number for the Butte County Courthouse is \*\*\* **(530) 538-8357** and for the Chico Courthouse is \*\*\* **(530) 892-8516**.

#### (d) FEES:

1. A Visa or MasterCard account may be used to pay for filing fees on facsimile filings made directly with the Court under the procedures provided in CRC 2006(e)(1). Filing fee accounts will not be permitted.

2. In addition to any other fees, each party filing by fax with the Court shall pay a fee of \$1.00 for each page transmitted to the Court. (A.D. 7-1-03)

#### 13.2 - FORM OF DOCUMENTS, GENERALLY

(a) The word "documents" as used in this rule includes all documents including "papers," as that term is defined in CRC 201(a), which are offered for filing in any case in the Butte County Superior Court, including printed forms of the type furnished by the Clerk of the Court.

(b) All documents presented for filing must comply with CRC Rules 201 and 311 through 315.

(c) The Clerk of the Court shall not accept for filing or file any document which does not comply with this rule; provided however, that for good cause shown, the Court may permit the filing of a document which does not comply herewith. (A.D. 1-1-2003)

**13.3 - RESERVED**

(A.D. 1-1-2000)

**13.4 - RESERVED**

(A.D. 1-1-99)

**13.5 - CONFORMING COPIES**

Unless the Court finds good cause, the Clerk of the Court will conform a maximum of two (2) copies of any document at the time of filing. Additional copies will be provided by photocopying and the standard Clerk of the Court fee for copies will be charged.

(A.D. 7-1-96)

**13.6 - PREPAID, SELF-ADDRESSED ENVELOPES REQUIRED**

A self-addressed envelope with sufficient postage affixed is required for the mailed return of all documents submitted for conformance. Copies submitted for conformance without an envelope will be placed in the attorneys' or pro per "hold drawer" in the office of the Clerk of the Court. Items not picked up from these boxes within thirty (30) days will be destroyed.

(A.D. 7-1-98)

**13.7 - TIME AND DATE MUST BE SHOWN**

**(a)** When the date of the hearing for any Law and Motion, Family Law, Criminal or Probate matter is known, all papers filed for consideration at the hearing shall contain the hearing date and time in the caption of the case below the action number. Failure to comply with this rule may result in documents not being before the Court at the time of the hearing.

**(b)** When supplemental documents are filed after hearing relating to matters taken under submission, the date the matter was submitted and the department in which the matter stands submitted shall be included in the caption of the case below the case number

(A.D. 1-1-99)

# BUTTE COUNTY RULES OF COURT

## LOCAL RULE 14

(Effective Date: 1-1-91)

### RULE 14 ATTORNEY FEES

(Title A.D. 7-1-99)

The following attorney fees shall, under normal circumstances, be awarded by the Court to court-appointed attorneys for reasonably necessary legal services rendered in the Superior Court of California, County of Butte.

(A.D. 7-1-99)

#### 14.1 - EXCEPT IN CAPITAL CRIMINAL CASES

(a) For reasonably necessary out-of-court work, such as consultation, research, discovery and general preparation, and reasonably necessary court appearances before trial, \$65.00 per hour.

(b) For trial, \$65.00 per hour.

(c) Fees are not payable for "waiting time", including deliberations, which can be utilized by library work on other matters. The Court will also not allow travel time to and from court.

(d) Expenses reasonably and necessarily incurred by counsel, including costs for service of process, long distance telephone calls and copies of documents normally should be reimbursed. As to copies of court documents, the attorney can be reimbursed at whatever rate the Clerk of the Court's office charges to make copies. Receipts are required for reimbursement of these expenses. As to any other copies, a rate of 10 cents per page will be allowed. The Court will not pay for attorney time in making copies. Counsel incur any and all expenses at their own risk unless previous order of the Court is obtained authorizing such expenses. This is particularly true of investigative services and expert witnesses, which should not be obtained without express prior authorization from the Court. Such funds shall be paid upon presentation of an itemized billing, including receipts for expenses, and "Butte County Claim for Professional Services". Claims are to specify an hourly rate and are not to exceed the total amount authorized by the Court. Such items as parking fees, mileage from offices to the courthouse, local telephone calls or pro rata office expenses will not be allowed. Actual expenses shall not exceed the rate specified by local ordinance or, if none, the rate specified by the State Board of Control under Title 2, Division 2, Chapter 1, California Administrative Code.

(e) **WITNESSES.** Other than in privately retained counsel cases, it is the obligation of the attorney subpoenaing a witness to obtain and prepare a Butte County Claim Form and have the witness sign the claim. The attorney shall then present the claim to the Court's Administrative Office for processing for payment.

(A.D. 7-1-01)

#### 14.2 - CAPITAL CRIMINAL CASES

In capital criminal cases, the fee for trial shall be determined by the Court and the fee for other reasonably necessary expenses and legal services shall be computed in accordance with LR §14.1.

(E.D. 1-1-91)

#### 14.3 - CLAIM FOR FEES AND REIMBURSEMENT OF EXPENSES

A final claim for attorney fees or for reimbursement of expenses shall be submitted to the Presiding Judge or to any Judge designated by the Presiding Judge on a form furnished by the Clerk of the Court, not later than thirty (30) days after completion of the legal services.

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Additions or changes indicated by ***bold italics***; deletions by **~~bold~~** \*\*\*

(E.D. = Effective Date)

(A.D. = Amended Date)

However, interim billings must also be submitted every 60 days, during the pendency of the proceeding. Failure by an attorney to comply with this requirement shall, except for good cause shown, be deemed a waiver of the claim. The claim shall include an itemized statement of the services rendered, the time devoted to and the sum requested for each item of service, the items and amounts of reasonably necessary expenses incurred, with receipts verifying such expenses attached, and the total amount requested by such attorney.

(A.D. 7-1-98)

#### **14.4 - PROFESSIONAL LIABILITY INSURANCE**

Attorneys appointed pursuant to this Rule shall secure malpractice (Errors and Omissions) coverage in the amount of One Hundred Thousand dollars (\$100,000) per occurrence; Three hundred thousand (\$300,000) aggregate

(E.D. 1-1-02)

#### **- ATTORNEY FEES IN ACTIONS ON PROMISSORY NOTES, CONTRACTS PROVIDING FOR PAYMENT OF ATTORNEY FEES, AND FORECLOSURES**

The following attorney fees shall, under normal circumstances, be awarded in actions on promissory notes, contracts providing for the payment of attorneys' fees and foreclosures:

**(a) DEFAULT ACTION ON NOTE OR CONTRACT. Exclusive of costs:**

- 25 percent of first \$1,000 with minimum fee of \$150
- 20 percent of next \$4,000
- 15 percent of next \$5,000
- 10 percent of next \$10,000
- 5 percent of next \$30,000
- 2 percent of the amount over \$50,000

**In an action upon contract providing for an attorney fee, the clerk shall include in the judgment an attorney fee in accordance with this schedule, not to exceed the amount prayed for.**

**(b) CONTESTED ACTION ON NOTE OR CONTRACT. The same amount as computed under subdivision (a), increased by such reasonable compensation computed on an hourly or per-day basis for any additional research, general preparation, trial, or other services as may be allowed by the Court.**

**(c) FORECLOSURE OF MORTGAGE OR TRUST DEED.** The same amount as computed under subdivision (a) or (b), increased by 10 percent.

**(d) FORECLOSURE OF ASSESSMENT OR BOND LIEN RELATING TO A PUBLIC IMPROVEMENT.** The same amount as computed under subdivision (a) or (b), except that the minimum fee shall be \$75 in an action involving one assessment or bond, and an additional \$20 for each additional assessment or bond being foreclosed in the same action.

(E.D. 7-1-99)

# BUTTE COUNTY RULES OF COURT

## LOCAL RULE 16

(Effective Date: 7-1-90)

### **RULE 16 FAMILY LAW**

For specific custody, visitation, and mediation rules, see Local Rule 9. These rules do not apply to Butte County Department of Child Support Services cases brought under the Welfare and Institutions Code.

(A.D. 1-1-02)

#### **16.1 - OBTAINING A HEARING DATE**

(a) All Motions and Orders to Show Cause filed under the Family Code and in civil harassment matters, including discovery matters, shall be heard on the Family Law Calendars. Rule 16 governs all Family Law Orders to Show Cause and other family law and motion matters.

**(b) Parties or counsel seeking to calendar Order to Show Cause, Notice of Motion Hearings or other issues requiring a hearing must contact the Clerk at \*\*\* (530) 532-7008 to determine available hearing dates and obtain a reservation before filing the moving papers. In the event the moving party is facing a deadline within which to bring its matter before the Court, the Clerk shall be so advised. Nothing in LR § 16.1 shall be construed to alter notice or other procedural requirements applicable to such motions.**

**(c) The Court will not review a file for an OSC hearing unless one of the parties has advised the Court of the need to do so by sending a facsimile letter request to the Court at \*\*\* (530) 538-8357 between 9:30 a.m. and 1:30 p.m. two court days before the scheduled hearing. A copy of the request must be sent to opposing counsel.**

(A.D. 7-1-03)

#### **16.2 - FAMILY MULTIPLE CASE COORDINATION CALENDAR**

On the motion of a party or counsel for a party, or on the Court's own motion, any number of cases, family law or otherwise, involving the family members or child(ren) related by blood or marriage, may be coordinated and calendared for hearing at the same time. The Court shall, at the time coordination is ordered, specify the cases coordinated, the parties and counsel, the manner of giving notice and the next hearing date. "Family" for this purpose is defined as related by blood or marriage or formerly related by marriage or have a live-in relationship with a parent; and is to be construed broadly.

The parties should use form RUL-16-FL.080 upon the initial filing of any pleading.

(A.D. 1-1-99)

### 16.3 - FORM OF PAPERS PRESENTED FOR FILING

The form of papers presented for filing for Family Law and Motion matters must conform with requirements of California law, California Rules of Court and Local Rules (LR) §§2.2, 2.3, 13.2 and 13.6.

All papers served shall indicate the date the original was signed.

(A.D. 1-1-2000)

### 16.4 - DEADLINE FOR FILING PAPERS

**(a)** Moving and responsive pleadings must be served on the opposing party or attorney, including the District Attorney if a party has applied for and/or is receiving public assistance, in accordance with CCP §1005.

**(b)** If a responding party fails to appear at a hearing, the moving party must submit proof of timely service to the Court; otherwise, the matter will be taken off calendar.

(A.D. 7-1-98)

### 16.5 - ORDERS SHORTENING TIME/EX PARTE ORDERS

**(a) CONTESTED REQUESTS FOR TRO'S** The Court will not, except upon a clear showing of necessity made by affidavit or declaration, issue ex parte orders in a domestic violence, civil harassment, uniform parentage or dissolution action without notice to the opposing party or counsel that a hearing may be held to oppose the application for temporary restraining orders and the process to oppose. Moving papers must be filed by 11:00 a.m. in order to have a hearing at 3:00 p.m. that day.

**(b)** Absent showing good cause, the time periods of California Rule of Court 379 will govern notice requirements. If good cause is shown, notice shall be given no later than 11:00 a.m. the day relief is sought. The opposing party may request such a hearing by contacting the Court Clerk's office at \*\*\* **(530) 532-7008** by 1:00 p.m. on the date the application is filed. Hearings will be scheduled for 3:00 p.m. that same day, or as soon thereafter as they may be called. If the Clerk's Office does not receive a request for a hearing from the opposing party by 1:00 p.m., the ex parte application for temporary restraining order will be treated as not having any immediate opposition. The moving party may contact the Clerk's office after 2:00 p.m. to inquire whether the opposing party has contacted the Clerk and requested a hearing to oppose the temporary restraining order and what time the moving party will have to appear at such a hearing.

In every case where an ex parte order is being requested, a declaration in the format set forth in form RUL16-FL.010 shall be filed.

**COMMENT:** It is preferable to obtain an order shortening time for an early hearing.

Rule 16.5 Continued]**(c) SUPPORTING DECLARATIONS - REQUESTS FOR TEMPORARY ORDERS & ORDER SHORTENING TIME.**

**1. EX PARTE ORDERS: TEMPORARY ORDERS.** All requests for temporary orders in domestic violence, civil harassment, paternity or dissolution action must include a declaration setting forth the reasons why an order shortening time for service and/or hearing will not suffice in lieu of an ex parte order pending hearing. [See RUL-16-FL-.010]

**A. EX PARTE ORDERS AFFECTING CUSTODY AND VISITATION.** Ex parte requests for modification of existing custody and visitation orders or for custody and visitation orders will not issue absent a clear showing of risk of immediate harm to the child(ren), or immediate risk the child(ren) will be removed from the State of California. The showing must be made by affidavit or declaration and shall include a full, detailed description of the most recent incident(s) of physical harm, threats of harm or threats to remove the child(ren) from the state and must specify the date of each incident. There is an absolute duty to advise the Court, in the supporting declaration, what the existing custody and visitation arrangement is and how it will be changed by the requested ex parte order. Further, if there is an existing Court order relative to child custody and visitation, the date of and provisions of that order must be set forth as part of the supporting declaration.

**B. EX PARTE ORDERS; RESIDENCE EXCLUSION.** Ex parte requests for an order excluding the other party or parties from the family residence or common dwelling of the parties will not issue absent a clear showing by declaration or affidavit, that the moving party: **[1]** has a right, under color of law, to possession of the premises; **[2]** that the party to be excluded has assaulted or threatens to assault the moving party or anyone under the moving party's care, custody and control, or a minor child of the parties (*include the date of each occurrence*), and **[3]** that unless the order to exclude is made, future physical or emotional harm would result to the moving party or persons in his/her care, custody and control.

**C. EX PARTE ORDERS: TEMPORARY CONTROL OF PROPERTY.** Ex parte requests for temporary use and possession of real or personal property must be supported by an affidavit or declaration clearly setting forth the moving party's need for such items, what hardship, if any, granting such an order will have on the other party and must include the status quo as to the use and possession of the subject property.

**2. ORDER SHORTENING TIME.** No request for ex parte order shortening time shall be submitted without a supporting declaration setting forth specific facts to support the need to shorten time for service and/or the hearing.

**(d)** Ex parte orders are rarely granted without giving the opposing party an opportunity to be heard because the temptation to indulge in unrestrained exaggeration is ever-present. Concealment of relevant facts is a danger. Accordingly, attorneys, parties and persons employed to type pleadings ("*typing services*") shall adhere to the highest standards of total honesty and full disclosure in preparing the declarations in support of ex parte orders.

[Rule 16.5 Continued]

**(e) ENFORCEMENT OF TEMPORARY RESTRAINING ORDERS.** Parties receiving protection by a temporary restraining order should deliver a certified copy of the restraining orders to the Butte County Sheriff's Office (BCSO) and/or to one or more designated additional law enforcement agencies. The order should have a file-endorsed stamp by the Clerk of the Superior Court in the upper, right hand corner. The order should be certified and the expiration date of the order should be clearly marked on the face of the document. Orders issued at the Order to Show Cause hearing should also include a specific expiration date.

COMMENT: BCSO registers restraining orders with CLETS, the statewide computerized registration system for restraining orders. (A.D. 1-1-01)

## **16.6 - FAMILY LAW FACILITATOR**

**(A) If the staff and other resources are available and the mandatory duties set forth in Family Code Section 10004 have been accomplished, the Family Law Facilitator may perform the following additional duties:**

- (1) Meeting with litigants to mediate issues of child support, spousal support, and maintenance of health insurance, subject to section 10012 of the Family Code. Actions in which one or both of the parties are unrepresented by counsel shall have priority.
- (2) Drafting stipulations to include all issues agreed to by the parties, which may include issues other than those specified in section 10003 of the Family Code.
- (3) If the parties are unable to resolve issues with the assistance of the Family Law Facilitator, prior to or at the hearing, and at the request of the Court, the Family Law Facilitator shall review the paperwork, examine documents, prepare support schedules, and advise the judge whether the matter is ready to proceed.
- (4) Assisting the clerk in maintaining records.
- (5) Preparing formal orders consistent with the Court's announced order in cases where both parties are unrepresented.
- (6) Serving as a special master in proceedings and making findings to the Court unless he or she has served as a mediator in the case.
- (7) Participate in the operation of the Family Court Clinics, including the training and supervision of volunteers for that clinic.
- (8) Assisting the Court with research and any other responsibilities which will enable the Court to be more responsive to the litigants' needs.
- (9) Developing programs for bar and community outreach through day and evening programs, videotapes, and other innovative means that will assist unrepresented and financially disadvantaged litigants in gaining meaningful access to family court. These programs shall specifically include information concerning underutilized legislation, and preexisting, court-sponsored programs, such as supervised visitation and appointment of attorneys for children.

(E.D. 7-1-98)



### **16.6.5 - COMPLAINT PROCESS – FAMILY LAW FACILITATOR**

*(A) Complaints concerning the Family Law Facilitator shall be dealt with as follows:*

- 6. Parents, parties and/or attorneys who wish to file a complaint regarding the services provided by the Office of the Family Law Facilitator may request a copy of the Family Law Facilitator Customer Complaint Form. These forms are available in the Family and Children Services Division, Court Clerk or Family Law Facilitator's Offices.*
- 7. Within five (5) working days of receipt, the complaint will be reviewed by the Administrator of the Family & Children Services Division. If the complaint is specifically regarding the Facilitator, the complaint will be forwarded to the Supervising Judge of the Court's Family Division. Within thirty (30) days of receipt of the complaint form, the Supervising Judge or designee will conduct an appropriate investigation. The investigation will include consultation with the Family Law Facilitator. Upon conclusion of the investigation, a written response, including any appropriate corrective measures to be taken, will be mailed to the complainant.*
- 8. Complaints not specifically concerning the Facilitator will be investigated by the Administrator of the Family & Children Services Division within (30) of receipt and a written response will be mailed to the complainant. A copy of the response will be forwarded to the Court Executive Officer.*

(E.D. 7-1-03)

### **16.7 - LENGTHY MATTERS**

Upon the calling of the Family Law calendar, should it appear that more than twenty (20) minutes will be required for hearing of a matter and counsel has notified opposing counsel or party twenty-four (24) hours in advance, the Family Law Judge may set the matter on the next available TRAC calendar (See Local Rule §16.13). If the moving or responding party contends that the matter will require more than twenty (20) minutes, and has made sufficient offer of proof or has filed a request for live testimony, the Family Law Judge shall set the matter to the next available TRAC calendar.

(A.D. 7-1-98)

### **16.8 - MEET AND CONFER REQUIREMENT**

No case on the Family Law calendar will be heard unless and until counsel and the parties have conferred in an effort to resolve all issues. All documentary evidence that is to be relied on for proof of any material fact shall be exchanged by counsel while conferring. Failure to meet and confer or exchange documents may result in the matter being dropped from the calendar, continued, or the Court may order other appropriate sanctions.

(E.D. 7-1-90)

**16.9 - EVIDENCE AT HEARING – OSC (SHORT CAUSE OR CONTEMPT)**

**(a) ORDER TO SHOW CAUSE HEARING.** Evidence received at an OSC hearing and Family Law and Motion matters shall be pursuant to CRC 323. The Judges recommend review of this rule by all counsel and parties prior to filing their moving and responding papers. *[Those rules provide, in part, that evidence at said hearing shall be by declaration and affidavit and by request for judicial notice without testimony or cross-examination, except as allowed in the Court's discretion for good cause shown.]*

**(b) CONTEMPT HEARING.**

1. If a party cited for contempt appears without an attorney, one continuance normally will be granted to permit the citee to retain counsel.
2. If the citee claims to be indigent, the citee will be ordered to fill out an application for a determination of indigency. If citee is found to be indigent, an attorney shall be appointed to represent the citee.
3. The citee will be ordered to be present at the time and date set for the continued hearing, thus avoiding further service.
4. In all contempt proceedings, a specific order of proof is preferred. First, the moving party shall introduce in evidence the prior order of the Court *(by judicial notice or otherwise)* which order was in full force and effect at the time of the alleged contempt. Second, the moving party shall establish that the opposing party had notice of that order. Third, the moving party shall proceed to establish the violation of that order, and the willfulness of that violation.
5. As to contempt for failure to pay child support, parties and their attorneys, if represented, are expected to be familiar with CCP §1209.5.
6. The moving party and their attorney, if represented, shall be thoroughly prepared to present all required evidence clearly and expeditiously, without calling the citee to testify.
7. After the contempt hearing, it shall be the responsibility of the moving party to prepare an Order for the signature of the Court, setting forth the findings and orders of the Court. Such an Order will be submitted directly to the Court, without approval as to form and content by the propria persona party. If the responding party is represented by counsel, it shall be submitted to counsel for approval.
8. The party or attorney preparing the Order After Hearing must set forth all findings of the Court including factual findings of the existence and current validity of a described Order, knowledge of the contemtor of that order, the violation of that Order, and the willfulness of that violation. Thereafter there shall be set forth the Orders of the Court with regard to the finding of contempt, and the sentencing. No contempt Order will be signed by the Court without compliance with the foregoing.
9. After a finding of contempt and sentencing thereon, there is no Court policy that a stay of execution will be granted. Counsel are expected to advise their clients of this fact in advance of the court hearing.
10. In appropriate cases, the Court may permit a continuance of sentencing to assure compliance with Court orders.
11. If the citee fails to appear for hearing after proper service and proof being made thereof, the matter will proceed to hearing in the citee's absence. (A.D. 1-1-00)

## **16.10 - DISCOVERY**

**(a) GENERAL POLICY.** Counsel are encouraged to participate in informal discovery in order to conserve the financial resources of the parties. In appropriate cases, upon request from either party or upon its own motion, the Court may adopt a discovery plan that is tailored to the issues of the case and to the financial resources of the parties.

**(b) ONE DEPOSITION RULE.** To encourage full preparation by counsel for hearings concerning temporary relief as well as at the trial of the case on the merits and to conserve the financial resources whenever possible, it is the policy of the Court to interpret the one deposition rule found in CCP §2025 (t) as permitting the taking of a bifurcated deposition in family law cases. Where deposing counsel so desires, a party may be required to appear for a deposition concerning those issues raised by an application for temporary relief (*e.g. temporary support, injunctive orders, etc.*) and that party may be required thereafter to submit to the resumption of his/her deposition on issues concerning the ultimate merits of the case. Similarly, where issues in the case are bifurcated, (*e.g., a separate trial on custody*), the deposition of a party may be similarly bifurcated and limited to those issues then pending before the Court if deposing counsel so elects. Whenever deposing counsel elects to conduct a deposition of a party in a bifurcated fashion, [s]he shall make such intention known in the Notice of Deposition and at the beginning of the deposition by stating same on the record.

**(c) DISCOVERY DISPUTES.** Discovery disputes shall be resolved pursuant to LR §2.14.

(E.D. 7-1-90)

**16.11 - CHILD AND SPOUSAL SUPPORT PROCEEDINGS**

**(a) CONTENTS OF PLEADINGS.** The application for order and supporting declarations and all other declarations in support shall set forth facts upon which the moving or responding party relies.

Unless there has been no change in the Income and Expense Declaration [Judicial Council Form 1285.50 et seq.] or Financial Statement (Simplified), if eligible, [Judicial Council Form 1285.52] of a party within the six (6) months preceding the hearing, a fully completed, current (*within thirty (30) days, of actual hearing*), Income and Expense Declaration or Financial Statement (Simplified), if eligible, shall be filed at least ten (10) days before hearing by each party in all hearings involving requests for support, attorney's fees or other financial relief. In any event, copies of the last three wage stubs or most recent Profit and Loss Statement will be provided to the opposing party or counsel no later than five (5) days preceding the hearing. If there has been no material change, a declaration under penalty of perjury that there has been no material change since the last Income and Expense Declaration or Financial Statement (Simplified) shall be submitted.

An Income and Expense Declaration is not fully completed unless it contains the following:

1. Documents which reflect all income of a party wherever required (*including all business income, commission income, rental income, interest income, etc.*). These documents shall completely set forth the source of income, total gross income, an itemization of all deductions, and the net income after deductions. Business expense documents shall identify depreciation and any other non-cash expenses.
2. A fully completed "attorney's fees" section on the Expense Declaration and a completed "other property owned" section on the Income Declaration.
3. Where bonuses have been received, attach a document setting forth the amount and date of the most recent bonus, the date on which the next bonus is expected to be received, and the amount (*if known or the estimated amount if not known*) of the next bonus.

Each party shall exchange at the time of the parties'/attorneys' meet and confer (see LR § 16.8), or no later than five (5) days preceding the hearing, whichever comes first, and be prepared to submit at hearing:

- A. Copies of the two most recent filed tax returns and/or all W-2 forms, 1099 forms and other documentary evidence reflecting receipt of income for any completed year in which a tax return has not yet been filed; and
- B. All pay stubs for a period of at least three (3) months immediately prior to the hearing.
- C. For a self-employed individual, a current Profit and Loss Statement.
- D. If the hearing is scheduled between February 1 and the date the parties' tax return(s) are filed, parties must exchange above information and other forms reflecting receipt of income during the previous year.

[Rule 16.11 Continued]

**(b) SUPPORT CALCULATIONS.**

1. The Court will normally set child support based upon statewide uniform guidelines per FC §4050 et seq..
2. Temporary spousal support shall be determined by application of the "Santa Clara" support schedule, unless the Court, in its discretion determines not to follow the support schedule.
3. If it is contended by either party that the Guideline support is inappropriate, the declaration supporting such contention shall set forth the party's amount alleged to be proper. Such declaration shall include any reasons or justifications urged by the party for varying from the Guideline support. The reasons and justifications cited by the party must be within the limitations of Family Code §4057. If any party is disabled, unemployed, retired or incarcerated, all pertinent facts shall be set forth in the declaration. The declaration may be signed by the attorney for the party on whose behalf it is made.

**(c) COMPUTERIZED SUPPORT CALCULATIONS.** Any party relying on any Judicial Council certified computerized support calculations shall **[1]** provide to the other party, prior to the hearing, a complete printout of the computerized support calculations including the sheet that identifies the "setting" utilized to determine the support, and **[2]** file a copy of same at the time of the hearing.

**(d) RECIPIENTS OF PUBLIC ASSISTANCE BENEFITS.** If either or both parties have applied for and/or are receiving public assistance, then each party shall serve upon the Family Support Division of the Office of the Butte County District Attorney their moving or responsive papers in accordance with CCP §1005.

**(e) SANCTIONS.** Absent a showing of good cause, the Court will award sanctions or attorney's fees for non-compliance with LR §16.11. If awarded, such sanctions or fees may be ordered paid to the Court and/or the opposing attorney/party at the Court's discretion.

**(f) RETURN OF TAX RETURNS.** All income tax returns submitted by the parties shall be returned to the party submitting same at the conclusion of the hearing unless ordered to be retained by the Court. (A.D. 1-1-01)

**16.12 - STIPULATIONS**

All stipulations shall be in writing and submitted to the Court before or at the calendar call on the date set for hearing. (A.D. 7-1-93)

**16.12.5 - CHANGE OF VENUE**

Contained in every motion for change of venue, shall be the proposed county of venue hearing dates and times for family law matters.

(A.D. 1-1-99)

## **16.13 - TRIAL, SHORT AND LONG CAUSE EVIDENTIARY HEARINGS**

### **A. INTRODUCTION**

- (1) “Family Law Matters” for purposes of Local Rule §16.13 includes family law, uniform parentage, domestic violence, guardianship of the person and civil harassment cases.
- (2) Evidentiary hearings on family law matters with time requirements of 20 minutes or less will be heard on the Order to Show Cause Calendar. Evidentiary hearings with time requirements of 21 – 90 minutes will be set on a Short Cause Calendar from the Order to Show Cause Calendar. Evidentiary hearings with time estimates in excess of 90 minutes will be placed on a Trial Readiness and Assignment Calendar [“TRAC”] from the Order to Show Cause Calendar.
- (3) Family Law Matters will be set for trial from the TRAC. A matter is placed on the TRAC by filing an At-Issue Memorandum. [See RUL-16-FL.090]. A matter will normally be placed on a TRAC within 90 days of the filing of the At-Issue Memorandum and will be set for trial within the four weeks following the TRAC.
- (4) The purpose of the following rules is to ensure that family law matters are not set for trial until adequate case and trial preparations have been completed.

### **B. PRELIMINARY TRIAL PAPERS**

1. All of the following papers, which shall be known collectively as Preliminary Trial Papers, shall be served and filed with, or no more than 30 days prior to, the At-Issue Memorandum:
  - a. Fully completed current Income and Expense Declaration.  
(See LR §16.11.)
  - b. Fully completed Schedule of Assets and Debts [Judicial Council Form 1292.11].
  - c. Declaration Regarding Service of Final Declaration of Disclosure [Judicial Council Form 1292.05].
  - d. Statement of Issues, Contentions, and Proposed Disposition, with a full and complete statement of the factual basis in support of each contention. The statement shall cover all issues to be raised at trial, including, where appropriate:
    - (1) Child custody, visitation, and timesharing;
    - (2) **Child support, including a computer-generated or other calculation of support;**
    - (3) Spousal support;
    - (4) Characterization of property as separate or community, the nature, extent, and terms of payment of any encumbrance against the property, and the manner in which title has been vested since the acquisition of the property;
    - (5) A proposed method for disposition of tangible personal property (i.e., household items and tools), such as by agreement of the parties, sealed bid, “piece-of-cake” (or “two pile”), appraisal and alternate selection, or sale;

[Rule 16.13 Continued]

(6) Regarding funds held by others, such as insurance policies or retirement benefits, the basis for calculation of the present value, if applicable, all terms or conditions imposed upon the withdrawal of the funds, and details regarding any outstanding loans against any of the funds;

(7) Terms of payment of any debts or obligations and any security held by the creditor;

(8) Any claims against the community or the other party, including Epstein credits for post-separation payments of community debts, Watts charges for use of community assets, reimbursement for post-separation payments of the other party's separate obligations, Family Code section 2640 reimbursement for separate property contributions to the acquisition or improvement of community property;

(9) Calculation of any community property interest in separate property (Moore-Marsden);

(10) In tracing an asset that is contended to be part community and part separate, the statement shall describe the asset, its date of acquisition, its value, the dates and amounts of payments upon the purchase of the asset or nature and extent of the transaction which resulted in its acquisition, and a statement of the segregation of the total value of the asset as to its community and separate property values;

(11) Any claim for breach of fiduciary duty;

(12) Attorneys' fees and costs;

(13) Permanent restraining orders;

(14) Any other issue to be presented to the Court;

e. Written statement of any expert witness, prepared as a separate document, encaptioned "Declaration in Lieu of Testimony," made by affidavit or declaration under penalty of perjury, and including the expert's address and telephone number. The statement shall be received into evidence unless the opposing party, within 30 days, serves and files a written demand that the witness be produced in person to testify at the hearing. Any portion of the statement that would be inadmissible if the witness were testifying in person is subject to an objection and motion to strike at trial.

2. An At-Issue Memorandum that is not accompanied by all of the foregoing will be returned and the case will not be set on the TRAC.

3. Any party who believes that the case is not ready to be set for trial may, within ten (10) days of the date of mailing or personal service of the At-Issue Memorandum, serve and file a "Declaration in Opposition to Trial Setting" setting forth all reasons that the case is not ready to be assigned to a TRAC. Upon receipt of the "Declaration in Opposition to Trial Setting" the calendar clerk will place the issue of readiness for trial on an Order to Show Cause Calendar not less than 21 days nor more than 35 days from the date the "Declaration in Opposition to Trial Setting" is filed. The party filing the At-Issue Memorandum shall serve and file a "Declaration in Support of Trial Setting" no less than ten (10) days before the hearing.

[Rule 16.13 Continued]

4. The responding party shall serve and file his or her Preliminary Trial Papers no later than 30 days after service of the At-Issue Memorandum. This period may be extended to 60 days by filing and serving a statement that the additional time is needed to prepare the Preliminary Trial Papers. This statement shall specify why the additional time is needed, shall set forth any additional discovery to be completed, and shall be served and filed within 10 days of the service of the At-Issue Memorandum. Any statement filed in bad faith or solely for the purpose of delay shall be cause for sanctions.

5. No less than 30 days before the TRAC, each party shall serve and file a list of any experts the party expects to call at trial, including the name, address, and telephone number of the expert, a brief narrative statement of the qualifications of the expert, and a brief narrative statement of the general substance of the testimony that the expert is expected to give. Within 15 days of service of the expert witness list, either party may file a supplemental list of expert witnesses containing all of the same information.

## C. FINAL TRIAL PAPERS

1. At least five (5) court days before the TRAC, each party shall serve and file all of the following, which shall be known collectively as Final Trial Papers.

(a) **A statement summarizing undisputed issues and disputed issues, with an updated estimate of trial time;**

(b) Current Income and Expense Declaration;

(c) **Updated Statement of Assets and Debts, if appropriate;**

(d) **Supplemental Statement of Issues, Contentions, and Proposed Disposition, detailing any changes or additions since the initial Statement of Issues. No party shall be allowed to raise at trial any issue not adequately disclosed in that party's initial or supplemental Statement of Issues.**

(e) **A statement identifying each witness the party reasonably anticipates it is likely to call at trial; however, this does not apply to rebuttal witnesses. Only witnesses so listed will be permitted to testify at trial, except for good cause shown. The statement shall specify the name, address, and telephone number of each witness, a general statement of the issues that will be addressed by the testimony of the witness, and a time estimate for the direct examination of the witness.**

(f) **A list of exhibits, rather than the exhibits themselves, shall be filed with the Court. Parties shall exchange legible copies of all exhibits the party reasonably anticipates will be introduced at trial. Only disclosed exhibits will be permitted to be offered at trial, except for good cause shown. The parties are encouraged to have their exhibits premarked.**

(g) **A complete set of attorney's bills and statements to date, if attorneys fees are in issue.**



[Rule 16.13 Continued]

2. The filing party shall serve the Final Trial Papers on the other parties in a manner to assure delivery to the other parties no later than five (5) court days before the TRAC.

3. A Trial Brief setting forth the applicable law is recommended but not required. All Trial Briefs shall be filed and served in a manner to assure delivery to the other parties no later than two court days before trial.

## D. CONTINUANCE

1. Except as set forth below, no case shall be continued from the TRAC except upon an affirmative showing of good cause, such as unavoidable unavailability of a party, attorney, or essential witness.

2. At the request of both parties, the Court may continue a case from the TRAC one time to a subsequent TRAC for purposes of potential settlement in any of the following ways:

- a. Referral of a matter with a time estimate in excess of one day for a mandatory settlement conference.
- b. Referral of other matters for a voluntary settlement conference, by stipulation of all parties.
- c. A joint request by all parties based upon their representation that they will conduct an informal settlement procedure (such as a meeting of all parties and attorneys) and that they believe there is a reasonable likelihood that some or all of the issues will be resolved.
- d. Attendance by all parties and counsel at a settlement conference or informal settlement meeting is mandatory. Failure to attend and be prepared for any settlement conference or meeting may constitute sufficient cause for imposition of sanctions pursuant to California law, including, but not limited to, CCP §575.2 and CRC §227.

## E. EVIDENTIARY HEARINGS

1. The foregoing rules also apply to all evidentiary hearings on law and motion matters, with respect to the issues being raised at the hearing.

2. All required papers shall be served and filed in a manner to assure delivery to the other parties no later than ten court days before the date of the evidentiary hearing.

F. SANCTIONS FOR NON-COMPLIANCE WITH LOCAL RULES. **Failure to fully comply with the foregoing rules, in the absence of good cause, may result in the other party being granted a continuance and may subject the offending party, or his or her attorney, or both, to sanctions pursuant to California law including but not limited to CRC § 227 and CCP § 575.2.**

## G. RESERVED

(A.D. 7-1-01)

**16.14 - VALUATION DATE FOR ASSETS OTHER THAN TRIAL DATE**

A party seeking a valuation date for community property other than the date of trial shall serve and file a notice of motion to be heard not later than thirty (30) calendar days before the trial date. (FC §2552) (E.D. 7-1-90)

**16.15 - APPROVAL OR INCORPORATION OF PROPERTY SETTLEMENT AGREEMENT**

No property settlement agreement shall be approved by the Court or incorporated by reference in a judgment unless:

- (a) The petition refers to the property settlement agreement, or the agreement or a separate stipulation signed and filed by the parties and their respective attorneys provides that the agreement may be presented for Court approval and incorporation, or both parties and their attorneys have endorsed approval of the agreement on the form of the stipulation for judgment;
- (b) The agreement is signed and acknowledged, before separate notaries, by the parties; and
- (c)
  - 1. If both parties are represented by counsel, the agreement is signed by both attorneys, or
  - 2. If only one party is represented by counsel, the attorney for that party signs the agreement and the other party signs a statement in the agreement or a declaration or affidavit that that party has been advised to consult an attorney regarding the agreement, but declined to do so; or
  - 3. If neither party is represented by counsel, any party not appearing at the hearing acknowledges in the agreement that [s]he is aware of the right to consult an attorney.
- (d) If either or both parties have applied for and/or are receiving public assistance, then the proposed Property Settlement Agreement shall be presented to the Family Support Division of the Office of the Butte County District Attorney for approval prior to its presentation to the Court for approval. (A.D. 7-1-98)

**16.16 - JUDGMENTS**

(a) **GENERAL POLICY.** Where a Judgment of Dissolution is sought to be obtained by written agreement of the parties after a response has been filed (*uncontested*), or by default, the affidavit provisions of the Family Code 2336 may be used.

**COMMENT:** Judgments of a void or voidable marriage or legal separation may require a court hearing. Generally uncontested and default family law judgments shall be obtained by declaration. However, a hearing may be set upon request of a party or by Court order. Where applicable, Judicial Council Forms or computerized substitutes are mandatory. Parties in pro per may contact the Butte County Court Facilitator, who has an office at the courthouse for assistance in the preparation of the required forms.

Rule 16.16 Continued]

**(b) PREREQUISITES TO OBTAINING THE UNCONTESTED JUDGMENT.** Default or uncontested family law judgments may be obtained only after one of two events has occurred; **[1]** the default of respondent, or **[2]** respondent has appeared and the parties have stipulated to proceed uncontested. A respondent generally appears in two ways; by filing a properly completed Response, or Appearance, Stipulation and Waivers.

**COMMENT:** If respondent has filed a Response, the parties may appear in open court and orally stipulate to waive notice of time and place of trial and Statement of Decision and agree that the matter shall be heard on the uncontested calendar.

**(c) REQUIREMENTS OF PRELIMINARY DECLARATION OF DISCLOSURE IN ALL CASES.** Prior to the Court entering a default judgment, regardless of whether or not there is a written agreement between the parties, petitioner must serve the preliminary declaration of disclosure as provided in Family Code §2104 containing, at a minimum, the requirements set forth at Family Code §2104 (c)(1),(2) and (e). A party may amend his or her preliminary declaration of disclosure without leave of Court pursuant to 2104(d). The purpose of the preliminary declaration of disclosure is to allow a person of reasonable and ordinary intelligence to be able to ascertain the identity of all the assets and liabilities of the parties regardless of whether the assets are community, quasi community or separate as well as what percentage of the asset is owned by the petitioner.

The Declaration Regarding Service of Preliminary Declaration of Disclosure must be filed with the Court, showing that service of the documents has been effected. The form of the preliminary declaration of disclosure is entitled "Declaration of Disclosure (Family Law)." [Judicial Council Form 1292]

**(d) NO FINAL DECLARATION OF DISCLOSURE REQUIRED OF PETITIONER FOR A DEFAULT JUDGMENT.** **In the case of a default judgment, the petitioner may elect not to file a final declaration of disclosure, provided the proof of service of serving preliminary declaration of disclosure has been filed.**

**(e) REQUIREMENTS OF FINAL DECLARATION OF DISCLOSURE, WAIVER OF FINAL DECLARATION OF DISCLOSURE.** Where the respondent has filed a Response, a final declaration of disclosure is ordinarily required of both parties unless the parties jointly agree to stipulate to a mutual waiver of the requirements of a final declaration of disclosure under Family Code §2105(c). Such a waiver shall include all of the following representations:

- (1) both parties have complied with the obligations to file preliminary declarations of disclosure referenced above and preliminary declarations of disclosure have been completed and exchanged between the parties;
- (2) both parties have completed and exchanged a current Income and Expense Declaration;
- (3) the waiver is knowingly, intelligently, and voluntarily entered into by each of the parties;
- (4) each party understands that by signing the waiver, he or she may be affecting his or her ability to have the judgment set aside at any future time.

[Rule 16.16 Continued]

Where there is no mutual waiver, and the respondent has appeared, in order for entry of judgment, both parties will need to file no later than 45 days prior to the entry of judgment, a final declaration of disclosure and a complete, current Income and Expense Declaration. The final declaration of disclosure shall be completed in its entirety pursuant to Family Code §2105.

**(f) JUDGMENT (FAMILY LAW) BY DECLARATION.** All papers necessary to obtain judgment by declaration under FC §2336 shall be delivered to the Clerk's Office.

**(g) JUDGMENT BY DEFAULT.** Unless the Court orders otherwise, a default will not be entered based on a Notice & Acknowledgment of receipt signed by a person other than the party to whom it is directed.

1. No award of child support, spousal support or attorney's fees will be granted unless there is either an attached written agreement between the parties settling those issues, or there is sufficient information on which a Court may base such an award, including an executed and fully completed Income and Expense Declaration (*with information concerning both parties where available*) attached to and served with the Request to Enter Default. If either or both parties have applied for and/or are receiving public assistance, then the proposed Judgment shall be presented to the Family Support Division of the Office of the Butte County District Attorney for approval prior to its presentation to the Court for approval.

2. No division of community property (*assets or obligations*), or confirmation of separate property, will be ordered unless there is either an attached written agreement between the parties settling those issues, or there is a completed Property Declaration attached to and served with the Request to Enter Default.

**(h) CHILD CUSTODY AND VISITATION.**

1. Where the judgment is taken by default, and there is no attached written agreement of the parties concerning custody and visitation, an attached factual declaration shall set forth the following:

A. Where the party is seeking joint custody, what contact with the child(ren) the defaulting party shall have.

B. Where the party is seeking to deny visitation between the child(ren) and the defaulting party, the reasons why visitation should not be ordered.

2. In preparing the declaration, the party shall inform the Court when the parties were separated, who has been the primary caretaker of the child(ren) during the immediate past six (6) months and the extent of contact between the child(ren) and the non-caretaker parent during that time.

/Rule 16.16 Continued]

**(i) CHILD SUPPORT.**

1. Where judgment is obtained by default, and there is no attached written agreement concerning child support, then:

**A.** An attached declaration shall state the effective date of the order sought, the amount of support sought per child and in total, the net incomes of each party, the name and birth date of each child, and the amount of support suggested in the case of each child pursuant to FC §§4050 et seq. An Income and Expense Declaration is required.

**B.** Where a support order is sought and the party to whom support is to be paid has applied for and/or is receiving public assistance, the proposed judgment shall be presented to the Family Support Division of the Office of the Butte County District Attorney for approval prior to its presentation to the Court for approval as to child support. Such support shall be ordered payable to the Butte County Family Trust Fund of the Butte County District Attorney's Office.

2. If there is an attached agreement duly executed by the parties, and notarized, such that the matter is proceeding as an uncontested hearing, then there must be a factual showing that child support is in conformance with the mandatory child support guidelines for a waiver of the mandatory child support guidelines under Family Code §4065, expressly providing that (1) the parties are fully informed of their rights concerning child support; (2) the order is being agreed to without coercion or duress; (3) the agreement is in the best interests of the children involved; (4) the needs of the children will be adequately met by the agreed-upon amount of child support; (5) the right to child support has not been assigned to the County of Butte because the party receiving child support is receiving public assistance; (6) that no application for public assistance is pending by either party.

**(j) SPOUSAL SUPPORT.**

1. The issue of spousal support for each party must be addressed. A support amount may be requested, terminated, or the issue may be reserved.

2. If a request for spousal support is by default, attach a declaration which states the effective date of the order sought, the amount of spousal support sought, and the net incomes of each party.

3. If the party to whom spousal support is to be paid has applied for and/or is receiving public assistance, the proposed judgment shall be presented to the Family Support Division of the Office of the Butte County District Attorney for approval prior to its presentation to the Court for approval as to spousal support. Such support shall be ordered payable to the Butte County Family Trust Fund of the Butte County District Attorney's Office.

4. If an uncontested and agreed-upon judgment waives spousal support, then both parties will need to acknowledge that their waiver is a knowing, voluntary, and intelligent waiver of spousal support and that each party understands their rights and is voluntarily and knowingly surrendering these rights.

[Rule 16.16 Continued]

5. When the Court is requested to make an order for spousal support, unless there is a circumstance where a party is unable to make any efforts to contribute to his or her self-support, the form of judgment shall provide the following admonition: "It is the goal of this state that each party shall make reasonable good faith efforts to become self-supporting as provided for in Family Code Section 4320. The failure to make reasonable good faith efforts may be one of the factors considered by the court as a basis for modifying or terminating support." If there is an inability of a party receiving spousal support to make good faith efforts to become self-supporting, the decree should reflect this by specific language to that effect.

**(k) FORMAT OF JUDGMENT.**

1. All orders concerning child custody, child visitation, child support, spousal support and attorney fees, as applicable, shall be set forth in the body of the judgment. As to these specific matters, reference to an attached written agreement of the parties is not acceptable.
2. The division of the community estate and confirmation of separate property, as applicable, may be set forth either in the body of the judgment or in an attached agreement incorporated in the judgment by reference.
3. Any jointly agreed-upon judgment or marital settlement agreement shall have the signatures of both parties notarized by a separate notary and the notary seal attached by those separate notaries.

**(l) PREPARATION OF JUDGMENT AND ORDER.**

1. The party directed by the court to prepare a Judgment or Order After Hearing shall do so within 15 days of being so directed and shall submit the proposed Judgment or Order to all other parties for approval as to form. If the non-preparing parties do not approve the form of order or propose modifications within 10 days of being served with the proposed Judgment or Order, the preparing party shall submit the Judgment or Order directly to the court with a letter detailing compliance with this rule.
2. If the party who is directed to prepare the Judgment or Order fails to do so, any other party may prepare the Judgment or Order and shall be awarded reasonable attorneys fees for preparing the Judgment or Order and for obtaining the award of attorneys fees.
3. Any party may by letter notify the court of a dispute over the form of Judgment or Order, or of the need for an award of attorneys fees for preparing a Judgment or Order that another party was directed to prepare and the court may, by minute order, set the matter for hearing.
4. The signature of the judicial officer shall not follow any attached agreement of the parties, but shall be set forth on the judgment following the orders of the Court.

[Rule 16.16 Continued]

**(m) RESTRAINING ORDERS.** All restraining orders in a judgment issued pursuant to FC §§2045(a) and 6322 must be followed by the date of expiration of such order (*FC §6361; maximum three (3) years*); good cause for granting such order(s) shall be set forth in attached declaration(s).

**(n) REAL PROPERTY.** All real property referred to in a judgment shall be described by its complete common address and/or legal description.

**(o) RESTORATION OF NAME.** Restoration of a wife's name shall be ordered in a judgment only upon her written request or request in open court. (See FC §2080).

**(p) FINALITY OF JUDGMENT OF DISSOLUTION.**

1. No judgment for the dissolution of marriage shall be final until six (6) months have expired from date of service of summons and petition or date of appearance of respondent. The judgment shall specify the date on which the judgment is finally effective for the purpose of terminating the marriage relationship of the parties. (FC §§2338 and 2339).

2. Upon noticed motion and good cause shown, or stipulation of the parties, the Court may retain jurisdiction over the date of termination of the marital status, or order the marital status terminated at a future specified date (FC §2340).

**(q) NUNC PRO TUNC JUDGMENTS.** To be entered nunc pro tunc, a judgment must comply with FC §2346. (A.D. 7-1-98)

**16.17 - "COURT POLICIES" FOR FAMILY LAW**

**COMMENT:** The Court believes it is important for counsel and litigants to know prehearing what the general policies of the Court are on certain issues that arise in the Family Law area; therefore, the Court has adopted certain "Court Policies" which it follows except in the unusual case. The Court reserves to itself the continuing discretionary power it has in making any final determination on these issues on a case by case basis. The goal and intention of the "Court Policies" is to encourage and enhance the ability of counsel and the parties to settle these matters without a court hearing wherever possible.

**COURT POLICY NO. 1 - RESERVED**

**COURT POLICY NO. 2 - RESERVED**

**COURT POLICY NO. 3 - RESERVED**

**COURT POLICY NO. 4- TIME SHARING**

[SEE FC §4055]

The time-share factors shall generally be based upon the hours the parent spends with the child(ren). The parenting time percentage calculations used by this Court are in form RUL16-FL.020 Parenting Time Percentage Worksheet.

(A.D. 7-1-98)

**COURT POLICY NO. 5 - CHILD SUPPORT WHEN CHILDREN ARE SEPARATED**

In this situation the Court will use the "set off" approach. The Court will apply the Guidelines to determine the support owed by the low wage earner and then determine the amount owed by the high wage earner, and then subtract the difference to determine the amount due from one party to the other. The Court will apply the time-sharing discounts as indicated in Court Policy No. 4.

**COURT POLICY NO. 6 - TRAVEL EXPENSE RELATIVE TO VISITATION [COSTS]**

**(a)** If the parties live in the same county or within fifty (50) miles of each other, the Court will ordinarily divide any minor travel expenses equally between the parties.

**(b)** If visitation requires air travel or automobile travel over long distances, the Court will ordinarily apportion costs based upon net disposable income, and the share of the payor spouse shall be added to his/her amount of support as set forth in the County Guidelines.

**(c)** The Court may vary from this approach if one party has unnecessarily or unreasonably caused the need for payment of travel expenses.

**COURT POLICY NO. 7 - RESERVED**

**COURT POLICY NO. 8 - RESERVED**

**COURT POLICY NO. 9- JOB RELATED EXPENSES AND BENEFITS**

**(a)**[SEE FC §4059]

**(b)** Employee benefits may or may not be included as part of net income in the Court's discretion, taking into consideration the benefit to the employee, the corresponding reduction in living expense, and any other relevant facts.



**COURT POLICY NO. 10**

**RESERVED**

**COURT POLICY NO.11 -**

**RESERVED**

**COURT POLICY NO.12 -**

**RESERVED**

**COURT POLICY NO.13 -**

**RESERVED**

**COURT POLICY NO.14  
REFERRALS**

**-MEDIATION POLICY AND**

It is the Court's policy that all family law issues should be mediated in order to help resolve issues which the parties and counsel are unable to resolve without assistance. The parties should first attempt mediation whenever feasible and whenever doing so will not create an undue hardship. At all hearings on family law issues, before setting and proceeding to trial, the Court will consider whether to recommend mediation as an alternative to Court intervention, and whether to continue the matter for the purpose of allowing mediation.

(A.D. 7-1-98)

Plaintiff or Party without Attorney. (Name and Address):  Telephone No.:  Plaintiff For (Name):  <b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF BUTTE</b> <b>ONE COURT STREET – OROVILLE, CA 95965</b> Petitioner:  Defendant:  Declaration RE: NOTICE OF EX PARTE APPLICATION FOR ORDERS Declaration RE: ORDER SHORTENING TIME	<b>COURT USE ONLY</b>          NUMBER:
--	--

Pursuant to Local Rule 16.5(c) 1, all requests for temporary orders in a Domestic violence, civil harassment, parentage or dissolution action must include a declaration setting forth the reasons why an order shortening time for service and/or hearing will not suffice in lieu of an ex parte order pending hearing.

I, \_\_\_\_\_, do declare:

That I am ☐ Counsel for ☐ Petitioner ☐ Respondent ☐ Claimant ☐ Joined party in the within action, and

**(1) I have given notice per CRC 379 of the present application for an ex parte order to**

☐ Counsel for ☐ Petitioner ☐ Respondent ☐ Claimant ☐ Joined party in the following manner:

☐ By letter/fax ☐ By telephone call: to \_\_\_\_\_ at this number \_\_\_\_\_

☐ I personally told: \_\_\_\_\_ on \_\_\_\_\_ at \_\_\_\_\_ .m.

(a.) ☐ I am seeking orders against him/her. Specifically temporary:

☐ Restraining orders ☐ Residence exclusion (kick-out) orders, and/or

☐ Orders affecting ☐ Custody ☐ Visitation, and, if (s)he wants to oppose the temporary order(s),

(s)he must call the court clerk's office at \*\*\* **530-532-7008** by 1:00 p.m. on \_\_\_\_\_ to notify the Court (s)he intends to appear and oppose the temporary orders **and be present at a 3:00 p.m. hearing on the same date.**

☐ Other \_\_\_\_\_

(b.) I received the following response to said notice: \_\_\_\_\_

**(2) I did not give notice per CRC 379 of the present application for the following reason(s) indicated:**

(a.) ☐ Notice would cause adverse party to respond with violence that would result in physical injury to applicant, or otherwise frustrate the purpose of orders sought herein. (Explain)\* \_\_\_\_\_

(b.) ☐ The applicant would suffer immediate and irreparable harm to personal property before the adverse party could be heard in opposition. (Explain)\* \_\_\_\_\_

(c.) ☐ I have attempted to give notice per CRC 379 and the adverse party refused to answer the door, pick up the telephone or is in hiding. (Explain in detail)\* \_\_\_\_\_

(3.) ☐ If you are asking for temporary custody or visitation, explain why an order shortening the hearing date, instead of an ex parte hearing, will not be enough: \_\_\_\_\_

(4.) ☐ A residence exclusion would not burden or inconvenience the adverse party since (s)he is presently staying at (Explain)\* \_\_\_\_\_

**NOTE: California Rules of Court Rule 379 governs notice requirements.**

(5.) ☐ If less than required notice per CRC 379 was given, state why less notice is adequate for the opposing party to receive actual notice and respond: \_\_\_\_\_

(6.) ☐ I am requesting an Order Shortening Time for the following reasons: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

I declare under penalty of perjury under the Laws of the State of California that the foregoing is true and correct.

DATE: \_\_\_\_\_

\_\_\_\_\_  
TYPE OR PRINT NAME

\_\_\_\_\_  
SIGNATURE OF PARTY OF PARTY'S ATTORNEY

\* Use separate page if additional space is needed.

# PARENTING TIME PERCENTAGE WORKSHEET

## CALCULATIONS:

<u>Combinations</u>	<u>Hours</u>	<u>Days</u>	<u>Percent</u>
1. One standard wknd/mo (48 x 12)	576	24	6.5
2. One extended wknd/mo (60 x 12)	720	30	8.2
3. Alt.. standard wknds/mo (48 x 26)	1248	52	14.2
4. One-half all school vacations* (106 divided by 2)	1272	53	14.5
5. Alt. extended wknds/mo (60 x 26)	1560	65	17.8
6. Alt. std. wknds/mo + 1 eve/wk ([48 x 26] + [6 x 52])	1560	65	17.8
7. Alt. extended wknds/mo + 1 eve/wk ([60 x 26] + [6 x 52])	1872	78	21.4
8. Alt. std. wknds/mo + 1 ovrnght/wk ([48 x 26] + [12 x 52])	1872	78	21.4
9. Alt. std. wknds/mo + 1 ovrnght/wk + alt. holidays** (1248 x 624)	2088	87	23.8
10. Alt. std. wknds/mo + alt. ovrnghts/mo + alt. holidays** + 2 weeks/summer (1248 + 312 + 216 + 336)	2112	88	24.1
11. Alt. std. wknds/mo + 1 ovrnght/wk + alt. holidays** + 2 weeks/summer (1248 + 624 + 216 + 336)	2424	101	27.7
12. All Spring and Winter break and summer vacation (216 + 336 + 1872)	2424	101	27.7
13. Two days per week (48 x 52)	2496	104	28.5
14. Alt. std. wknds/mo + alt. ovrnghts/mo + alt. holidays** + ½ summer (1248 + 312 + 216 + 936)	2712	113	31.0
15. Three days per week (72 x 52)	3744	156	42.7
16. Alt. weeks/yr. (168 x 26)	4368	182	49.9
17. Four days per week (96 x 52)	4992	208	57.0

**\*SCHOOL VACATIONS:** = Thanksgiving ( 5 days)  
Spring Break ( 9 days)  
Winter Break (14 days)  
Summer (78 days = [June 15<sup>th</sup> – September 1<sup>st</sup>])

**\*\*ALTERNATE HOLIDAYS:** = Labor Day  
Presidents Day  
Thanksgiving  
Christmas  
Easter  
Memorial Day  
July 4<sup>th</sup>  
Mother's Day  
Father's Day

ATTORNEY FOR PARTY OR PARTY WITHOUT ATTORNEY, (NAME AND ADDRESS)	TELEPHONE No.:	<b>FOR COURT USE ONLY</b>
Attorney for (Name)		
<b>FAMILY LAW COORDINATED CASE COVER SHEET</b>		
Case Name:		
<b>BUTTE COUNTY SUPERIOR COURT, FAMILY DIVISION</b> ONE COURT STREET *** OROVILLE, CALIFORNIA 95965		CASE NO:

I, \_\_\_\_\_ do hereby declare that I am a party or attorney for a party in this proceeding.

The information below is to assist in determining whether this matter should be consolidated with others involving the same parties and/or their child(ren). A family is defined as presently or formerly related by blood or marriage, or having a live-in relationship with a parent.

FAMILY MEMBER	ADULT PROBATION	JUVENILE PROBATION	BEHAVIORAL (MENTAL) HEALTH	CHILDREN'S SERVICES DIVISION (CPS)	OTHER*
NAME (AKA if any)  ADDRESS  AKA's: D.O.B.	<input type="checkbox"/> CASE # OR WORKERS NAME	<input type="checkbox"/> CASE # OR WORKERS NAME	<input type="checkbox"/> CASE # OR WORKERS NAME	<input type="checkbox"/> CASE # OR WORKERS NAME	<input type="checkbox"/> CASE # OR WORKERS NAME
(EX)SPOUSE OR (EX)SIGNIFICANT OTHER  ADDRESS  AKA's: D.O.B.	<input type="checkbox"/> CASE # OR WORKERS NAME	<input type="checkbox"/> CASE # OR WORKERS NAME	<input type="checkbox"/> CASE # OR WORKERS NAME	<input type="checkbox"/> CASE # OR WORKERS NAME	<input type="checkbox"/> CASE # OR WORKERS NAME

**\* Other possible agencies:**

Alcohol and Drug Services  
 Community Action Agency  
 Court Ordered Counseling  
 DA Family support  
 DA Abduction Unit

Far Northern Regional Center  
 Family Court Services  
 Parent Education Network  
 State Department of Social Services  
 etc.

FAMILY MEMBER	ADULT PROBATION	JUVENILE PROBATION	BEHAVIORAL (MENTAL) HEALTH	CHILDREN'S SERVICES DIVISION (CPS)	OTHER*
(STEP)CHILD(REN)  ADDRESS  AKA's: D.O.B. _____	<input type="checkbox"/> CASE # OR WORKERS NAME	<input type="checkbox"/> CASE # OR WORKERS NAME	<input type="checkbox"/> CASE # OR WORKERS NAME	<input type="checkbox"/> CASE # OR WORKERS NAME	<input type="checkbox"/> CASE # OR WORKERS NAME
(STEP)CHILD(REN)  ADDRESS  AKA's: D.O.B. _____	<input type="checkbox"/> CASE # OR WORKERS NAME	<input type="checkbox"/> CASE # OR WORKERS NAME	<input type="checkbox"/> CASE # OR WORKERS NAME	<input type="checkbox"/> CASE # OR WORKERS NAME	<input type="checkbox"/> CASE # OR WORKERS NAME
(STEP)CHILD(REN)  ADDRESS  AKA's: D.O.B. _____	<input type="checkbox"/> CASE # OR WORKERS NAME	<input type="checkbox"/> CASE # OR WORKERS NAME	<input type="checkbox"/> CASE # OR WORKERS NAME	<input type="checkbox"/> CASE # OR WORKERS NAME	<input type="checkbox"/> CASE # OR WORKERS NAME
OTHER (I.E. GRANDPARENT, OTHER PARENT, STEP-PARENT,ETC)  ADDRESS  AKA's: D.O.B. _____	<input type="checkbox"/> CASE # OR WORKERS NAME	<input type="checkbox"/> CASE # OR WORKERS NAME	<input type="checkbox"/> CASE # OR WORKERS NAME	<input type="checkbox"/> CASE # OR WORKERS NAME	<input type="checkbox"/> CASE # OR WORKERS NAME
OTHER  ADDRESS  AKA's: D.O.B. _____	<input type="checkbox"/> CASE # OR WORKERS NAME	<input type="checkbox"/> CASE # OR WORKERS NAME	<input type="checkbox"/> CASE # OR WORKERS NAME	<input type="checkbox"/> CASE # OR WORKERS NAME	<input type="checkbox"/> CASE # OR WORKERS NAME

DATE: \_\_\_\_\_

\_\_\_\_\_  
(SIGNATURE)



# BUTTE COUNTY RULES OF COURT

## LOCAL RULE 17

(Effective Date: 7-1-96)

### JUVENILE COURT RULES

#### RULE 17 ATTORNEYS REPRESENTING PARTIES IN DEPENDENCY PROCEEDINGS

##### 17.1 - AUTHORITY

Welfare and Institutions (W&I) Code §317.6 and California Rule of Court (CRC) 1438.

(E.D. 7-1-96)

##### 17.2 - RESERVED

##### 17.3 - GENERAL COMPETENCY REQUIREMENT

**(a)** All attorneys appearing in juvenile dependency proceedings must meet the minimum standards of competence set forth in these rules. These rules are applicable to attorneys representing public agencies, attorneys employed by public agencies and attorneys appointed by the Court to represent any party in a juvenile dependency proceeding.

**(b)** *Every party in a dependency proceeding who is represented by counsel is entitled to competent counsel. (CRC 1438(b)). "Competent counsel" means a state bar member in good standing who is trained in the juvenile dependency law, and who demonstrates adequate forensic skills, knowledge and comprehension of the substantive law of juvenile dependency, the purposes and goals of dependency proceedings, and the procedures for filing extraordinary writ petitions (CRC 1438(b)(1)).*

**(c)** Attorneys are expected to meet regularly with clients, including children, contact social workers and other professionals associated with the client's case, work with other counsel and the court to resolve disputed issues without hearing, and adhere to mandated timelines. The child's attorney is not, however, required to assume the responsibilities of a social worker, or to perform services for the child unrelated to legal representation. (CRC 1438(b)(4)).

**(d)** All attorneys retained, assigned or appointed, are required to adhere to the time lines and the procedures stated elsewhere in these rules for settlements, discovery, protocols and other issues related to contested matters.

(A.D. 1-1-02)

##### 17.4 - RESERVED

(A.D. 1-1-02)



**17.5 - MINIMUM STANDARDS OF EDUCATION AND TRAINING; WORKLOADS**

**(a)** Each attorney appointed in a dependency matter before the juvenile court shall complete the following minimum training and educational requirements:

1. Eight (8) hours of training and education in juvenile dependency law, covering the following areas: Applicable case law and statutes; rules of court; judicial council forms; writ procedures; child abuse and neglect; child development; substance abuse; domestic violence; family preservation and reunification; *{A certificate of attendance at MCLE training, professional organization training (along with a copy of the program schedule) and/or attendance at court sponsored or approved training will fulfill this requirement}* or

2. At least six (6) months of regular appearances in dependency proceedings or comparable experience as determined by the presiding juvenile judge, in which the attorney has demonstrated competence to the Court's satisfaction in the attorney's representation of his or her clients.

**(b) A Certificate of Competency (See Form RUL-17-JV.010) shall be completed by the attorney of record for the dependency matter and submitted to the Court within 10 days of his or her first appearance in a dependency matter.**

**(c)** Failure to submit a Certificate of Competency pursuant to Local Rule 17.5(b), will cause the Court to notify the attorney that his or her right to practice in dependency proceedings is revoked. The attorney shall have thirty (30) days from mailing of the notice to submit a Certificate of Competency. If the attorney fails to submit such proof, the Court shall order that the attorney is prohibited from practicing in dependency proceedings and shall appoint certified competent counsel to substitute in.

**(d)** Each attorney certified to practice before the juvenile court, shall complete eight (8) hours of continuing education related to dependency and submit a new Certificate of Competency to the Court within every three (3) years.

**(e)** The attorney's continuing training or education shall be in the areas set forth in Local Rule 17.5(a)(1), or in other areas related to juvenile dependency practice including, but not limited to, special education, mental health, health care, immigration issues, the rules of evidence, adoption practice and parentage issues, the Uniform Child Custody Jurisdiction Act, the parental Kidnapping Prevention Act, state and federal public assistance programs, the Indian Child Welfare Act, client interviewing and counseling techniques, case investigation and settlement negotiations, medication, basic motion practice and the rules of civil procedure.

**(f) When a certified attorney fails to complete eight (8) hours of continuing education and submit a new Certificate of Competency within three (3) years the Court shall notify the attorney that his or her right to practice in dependency proceedings is revoked. The attorney shall have thirty (30) days from mailing of the notice to submit proof of completion of the required education or training and submit a new Certificate of Competency. If the attorney fails to do so, the Court shall order that the attorney is prohibited from practicing in dependency proceedings and shall appoint certified competent counsel to substitute in.**

**(g)** The attorney for a child must have a caseload that allows the attorney to perform the duties required by Welfare and Institutions Code Section 317(e) and the California Rules of Court.

(A.D. 1-1-02)

## **17.6 - APPOINTMENTS**

- (a)** The Court will only appoint counsel who have been certified by the Court to represent parents or children in the dependency court.
- (b)** Notification of appointment will be communicated by phone call and copy of written order.
- (c)** Billing shall be forwarded to the Court with appropriate documentation for approval. (See Local Rule 14)

(A.D. 7-1-99)

## **17.7 - STANDARDS OF REPRESENTATION**

All attorneys appearing in dependency proceedings shall meet the following minimum standards of representation:

- (a)** The attorney shall thoroughly and completely investigate the accuracy of the allegations of the petition or other moving papers and the court reports filed in support thereof. This shall include conducting a comprehensive interview with the client to ascertain his or her knowledge of, and/or involvement in the matters alleged or reported and contacting social workers and other professionals associated with the case to ascertain that the allegations and/or reports are supported by accurate facts and reliable information.
- (b)** The attorney is not required to meet, either directly or through an agent (e.g. an investigator), with a client who is incarcerated or committed out of Butte County. If the attorney believes, however, that such contact is essential to representing the interests of the client, application may be made to the Court. The attorney shall advise the client of the possible course of action and the risks and benefits of each. This shall include advising the client of the risk and benefits of resolving disputed matters without the necessity of a hearing and of the necessity for adhering to Court mandated time limits.
- (c)** The attorney shall vigorously represent the client's interests within applicable legal and ethical boundaries. This shall include the duty to work cooperatively with other counsel and the Court to explore ways to resolve disputed matters without hearing if it is possible to do so in a way which is consistent with the client's interests, and to comply with local rules and procedures as well as with statutorily mandated time limits.

(A.D. 7-1-99)

**17.8 - TIMELINES**

Attorneys for parties are required to adhere to the statutory time lines for all hearings. Time waivers will be accepted and continuances granted only on a showing of good cause.

1. Time lines for hearings are as follows:

**A. DETENTION HEARINGS.** Detention Hearings shall be heard no later than the end of the next court day after a petition has been filed (W&I §315; CRC 1440).

**B. JURISDICTION HEARING.** If the child is not detained, the hearing on the petition shall be begun within thirty (30) calendar days from the date the petition was filed. If the child is detained, the hearing on the petition shall be begun within fifteen (15) court days from the date of the detention order (W&I §334; CRC 1447).

**C. DISPOSITION HEARING.** If the child is detained, the hearing on disposition must be begun within ten (10) court days from the date the petition was sustained. If the child is not detained, the disposition hearing shall be begun no later than thirty (30) calendar days after jurisdiction is found (W&I §358; CRC 1451).

**D. SIX MONTH REVIEW.** The Court is required to review the status of every dependent child within six (6) months of the declaration of dependency and at least every six (6) months thereafter (W&I §§364, 366, 366.21; CRC 1460).

**E. TWELVE MONTH REVIEW.** The Court is required to review the status of every child who has been removed from the custody of a parent or guardian within twelve (12) months of the declaration of dependency (W&I §366.21; CRC 1461).

**F. EIGHTEEN MONTH REVIEW.** If the child is not returned at the twelve (12) month review, the Court shall conduct a review no later than eighteen (18) months from the date of the original detention (W&I §§366.21, 366.22; CRC 1462).

**G. NOTICE OF INTENT TO FILE WRIT PETITION.** A Notice of intent to file a petition for extraordinary writ shall be filed within seven (7) days of the date of the order setting a hearing under W&I §366.26, with an extension of five (5) days if the party received notice of the order only by mail (CRC 39.1B).

**H. PETITION FOR WRIT.** A petition seeking writ review of orders setting a hearing under W&I Code shall be served and filed within ten (10) days after the filing of the record in the reviewing Court (CRC 39.1B).

**I. RESPONSE TO WRIT PETITION.** Any response to a writ petition shall be served and filed within ten (10) days after the filing of the writ petition or within ten (10) days of receiving a request for a response from the reviewing Court (CRC 39.1B).

**J. SELECTION HEARING.** Selection Hearing for permanent plan shall begin within 120 days of the review at which reunification services are terminated and a hearing under W&I §366.26 ordered (W&I §§366.31, 399.22; CRC 1460, 1461, 1462).

**K. NOTICE OF APPEAL.** A notice of appeal shall be filed within sixty (60) days after the rendition of the judgment (CRC 39). (E.D.1-1-02)

### **17.9 - PROCEDURES FOR REVIEWING AND RESOLVING COMPLAINTS**

**(a)** Any party to a juvenile court proceeding may lodge a written complaint with the Court concerning the performance of his or her appointed attorney in a juvenile court proceeding. In the case of a complaint concerning the performance of an attorney appointed to represent a minor, the complaint may be lodged on the child's behalf by the social worker, a caretaker relative or a foster parent.

**(b)** Upon receipt of a written complaint, the Court shall notify the attorney in question of the complaint, shall provide the attorney with a copy of the complaint, and shall give the attorney fifteen (15) days from the date of the notice to respond to the complaint in writing.

**(c)** After response has been filed by the attorney or the time for the submission of a response has passed, the Court shall review the complaint and the response, if any, to determine whether the attorney acted contrary to local rules or policies or has acted incompetently. The Court may ask the complainant or the attorney for additional information prior to making a determination on the complaint.

**(d)** If, after reviewing the complaint, the response, and any additional information, the Court, either in writing or at oral hearing, finds that the attorney acted contrary to the rules or policies of the Court or incompetently, the Court shall take appropriate action. (E.D. 1-1-02)

**(e)** The Court shall notify the attorney and complaining party either in writing or by oral ruling at a closed hearing of its determination of the complaint. The Court's determination will be final.  
(A.D. 1-1-02)

### **17.10 - PROCEDURES FOR INFORMING THE COURT OF THE INTERESTS OF A DEPENDENT CHILD**

**(a)** At any time during the pendency of a dependency proceeding, any interested person may notify the Court that a minor who is the subject of the proceeding may have an interest or right which needs to be protected or pursued in another judicial or administrative forum.

**(b)** Notice to the Court may be given by the filing of Judicial Council form JV-180 or by the filing of a declaration. The person giving notice shall set forth the nature of the interest or right which needs to be protected or pursued, the name and address, if known, of the administrative agency or judicial forum in which the right or interest may be affected, and the nature of the proceedings being contemplated or conducted there.

**(c)** If the Court determines that further action on behalf of the child is required, the Court shall do one or more of the following:

1. Authorize the minor's attorney to pursue the matter on the child's behalf;
2. Appoint an attorney for the child, if the child is unrepresented;
3. Notice a joinder hearing pursuant to W&I §632 compelling the responsible agency to report to the Court with respect to whether it has carried out its statutory duties with respect to the child.

[Rule 17.10 – Continued]

4. Appoint a guardian ad litem for the child for the purposes of initiating or pursuing appropriate action in the other forum(s);
5. Take any other action the Court may deem necessary or appropriate to protect the welfare, interest and rights of the child. (A.D. 1-1-02)

**17.11 - RESERVED**

**17.12 - RESERVED**

**17.13 - RESERVED**

**17.14 - RESERVED**

**17.15 - DISCOVERY**

(a) The discovery provisions of CRC 1420 are hereby adopted and incorporated.

(b) Pre-hearing discovery shall be conducted informally. Except as protected by privilege, all relevant material shall be disclosed in a timely fashion to all parties of the litigation.

(c) Formal Discovery. Only after all informal means have been exhausted may a party petition the court for discovery. Any noticed motion shall state the relevancy and materiality of the information sought and the reasons why informal discovery was not adequate to secure that information. The motion shall be served on all parties at least five (5) judicial days before the hearing date. The date for the hearing shall be obtained from the clerk. A copy shall be served on the court before whom the matter is scheduled to be heard. Any responsive papers shall be filed and served two (2) court days prior to the hearing.

(d) Civil Discovery. In order to coordinate the logistics of discovery in dependency cases, there shall be no depositions, interrogatories, subpoenas of juvenile records or any other similar types of civil discovery without approval of a judge of the Juvenile Court upon noticed motion.

(e) **Case Records and Reports (CRC 1420). In contested proceedings, the social worker's narratives and other relevant case records shall be made available to all counsel at least ten (10) calendar days before the hearing and any updated records two (2) calendar days before the hearing. In all other cases, such documents shall be made available at least two (2) calendar days prior to the hearing.**

(f) Upon timely request, parents, guardians and de facto parents shall disclose to all other parties such non-privileged material and information within the parent's, guardian's or de facto parent's control which is relevant. (E.D. 1-1-02)

**17.16 - RESERVED**

**17.17 - PRESENTATION OF EVIDENCE**

Social study reports prepared by Children's Services shall be made available to all counsel before the hearing in accordance with the following time limitations unless otherwise ordered by the court:

- (a) Jurisdictional and/or dispositional reports are due at least 48 hours before the hearing.
- (b) Review of dependency status and status review reports are due at least ten (10) calendar days before the hearing.
- (c) All other reports shall be due a reasonable number of days before the hearing but in no event less than 48 hours before.
- (d) All proposed modifications to the petition shall be exchanged 48 hours prior to the jurisdiction hearing.
- (e) If any discovery, reports or proposed modifications have not been made available to all counsel, then any affected party or the court may request a continuance of the hearing to the extent permitted by law.
- (f) The names of any experts to be called by any party and copies of their reports, if not part of a social study report prepared by Children's Services, shall be provided to all counsel at least ten (10) days before the hearing, unless a shorted time is ordered by the court.
- (g) Reports prepared by any CASA advocate shall be make available to all counsel a reasonable number of days before the hearing, but in not event less than 48 hours before.

(E.D. 1-1-02)

**17.18 - SETTLEMENT CONFERENCES**

(a) **Settlement conference shall be calendared and held prior to every contested hearing, unless deemed unnecessary by the judicial officer setting the contested hearing.**

**(b)** The attorneys and all parties shall be present at the settlement conference, unless excused by the court. All excused parties shall be readily available either in person or by telephone at the direction of their attorneys. A representative of Children's Services with authority to settle cases shall be present at the settlement conference.

(E.D. 1-1-02)

ATTORNEY FOR PARTY OR PARTY WITHOUT ATTORNEY, (NAME AND ADDRESS)      TELEPHONE No.:		FOR COURT USE ONLY
Attorney for (Name):		
<b>CERTIFICATE OF COMPETENCY TO PRACTICE IN JUVENILE DEPENDENCY COURT</b>		
Case Name:		CASE NO:
Article II. <b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF BUTTE</b>  <b>ONE COURT STREET OROVILLE, CALIFORNIA 95965</b>		

I, \_\_\_\_\_, Attorney at Law, have completed the following (check one):

☐ Eight (8) hours of training or education in juvenile dependency law or related subjects as set forth in the Butte County Local Rules of Court.

☐ Six (6) months of experience in dependency proceedings.

The experience, training or education occurred during the calendar year(s):

\_\_\_\_\_

\_\_\_\_\_  
Date

\_\_\_\_\_  
Attorney

### VERIFICATION

I have read Butte County Superior Court Rule 17.5 and know its contents.

I am an attorney that practices regularly in the Juvenile Dependency Court. The matters stated in the foregoing document are true of my own knowledge.

I declare under penalty of perjury of the laws of the State of California that the foregoing is true and correct and that this Verification was executed on \_\_\_\_\_, at Butte County, California.

\_\_\_\_\_  
Attorney

# BUTTE COUNTY RULES OF COURT

## LOCAL RULE 18

(EFFECTIVE dATE: 1-1-2001)

### RULE 18 COURT APPOINTED SPECIAL ADVOCATE PROGRAM (CASA)

#### 18.1 - Adoption of Court Appointed Special Advocate Program

The Court hereby adopts the guidelines for court appointed special advocate programs (CASAs) set forth in Welfare and Institutions Code Sections 100-109 and California Rule of Court 1424, as well as the policy and procedures manual of the Butte County Court Appointed Special Advocate Program (hereinafter "the CASA"), as a Local Rule of Court applicable to the CASA and the guidelines are incorporated herein by this reference.

**(a) THE CASA.** The Court may appoint child advocates to represent the interests of dependent children. In order to qualify for appointment, the Special Advocate must be trained by and function under the auspices of a CASA, formed and operating under the guidelines established by the National Court Appointed Special Advocate Association (Welfare and Institutions Code Section 1356.5).

*The CASA shall report regularly to the Presiding Judge of the Juvenile Court with evidence that it is operating under the guidelines established by the National Court Appointed Special Advocate Association and the California State Guidelines for child advocates.*

(E.D. 1-1-01)

#### 18.2 - SPECIAL ADVOCATES

Special Advocates serve at the pleasure of the Court having jurisdiction over the proceeding in which the Advocate has been appointed.

**1. FUNCTIONS.** In general, an Advocate's functions are as follows:

- A. To support the child throughout the court proceedings;
- B. To establish a relationship with the child to better understand his or her particular needs and desires;
- C. To communicate the child's needs and desires to the Court in written reports and recommendations.
- D. To identify and explore potential resources which will facilitate early family reunification or alternative permanency planning;
- E. To provide continuous attention to the child's situation to ensure that the Court's plans for the child are being implemented;



- F. To the fullest extent possible, to communicate and coordinate efforts with the case manager (probation officer or social worker);
- G. To the fullest extent possible, to communicate and coordinate efforts with the child's attorney; and
- H. To represent the interests of the child in other judicial or administrative proceedings.

**2. SWORN OFFICER OF THE COURT.** A Special Advocate is an officer of the Court and is bound by these rules. Each Advocate shall be sworn in by a Judge or Court Commissioner before beginning his or her duties, and shall subscribe to a written oath.

**3. SPECIFIC DUTIES.** In its initial order of appointment, and thereafter in subsequent orders as appropriate, the Court may specifically delineate the Advocate's duties in each case, including interviewing and observing the child and other appropriate individuals, reviewing appropriate records and reports, consideration of visitation rights for the child's grandparents and other relatives, and reporting back directly to the Court as indicated. If no specific duties are outlined by the Court order, the Advocate shall discharge his or her obligation to the child and the Court in accordance with the functions set forth in Section (c) 1 herein.

(E.D. 1-1-01)

**18.3 - RESERVED**

**18.4 - Release of Information to Special Advocates**

**1. TO ACCOMPLISH APPOINTMENT.** To accomplish the appointment of a Special Advocate, the Judge or Commissioner making the appointment shall sign an order granting the Advocate the authority to review specific relevant documents and interview parties involved in the case, as well as other persons having significant information relating to the child, to the same extent as any other officer appointed to investigate proceedings on behalf of the Court.

**2. ACCESS TO RECORDS.** A Special Advocate shall have the same legal right to records relating to the child he or she is appointed to represent as any case manager (social worker or probation officer) with regard to records pertaining to the child held by any agency, school, organization, division or department of the State, physician, surgeon, nurse, other health care provider, psychologist, psychiatrist, mental health provider or law enforcement agency. The Advocate shall present his or her identification as a Court Appointed Special Advocate to any such record holder in support of his or her request for access to specific records. No consent from the parent or guardian is necessary for the Advocate to have access to any records relating to the child.

**3. REPORT OF CHILD ABUSE.** A Special Advocate is a mandated child abuse reporter with respect to the case to which he or she is appointed.

[Rule 18.4 – Continued]

**4. COMMUNICATION.** There shall be ongoing, regular communication concerning the child's best interests, current status, and significant case developments, maintained among the Special Advocate, case manager, child's attorney, attorneys for parents, relatives, foster parents, and any therapist for the child. (E.D. 1-1-01)

**18.5 - Right to Timely Notice**

*The moving party shall provide the Special Advocate timely notice of any motions concerning a child for whom a Special Advocate has been appointed.* (E.D. 1-1-01)

**18.6 - Calendar Priority**

*In light of the fact that Special Advocates are rendering a volunteer service to children and the Court, matters on which they appear should be granted priority on the Court's calendar, whenever possible.* (E.D. 1-1-01)

**18.7 - Visitation Throughout Dependency**

*A Special Advocate shall regularly visit the child to whose case he or she has been appointed. The Advocate shall monitor the case as appropriate until dependency is dismissed.* (E.D. 1-1-01)

**18.8 - Family Law Advocacy**

*Should the Court dismiss dependency and create family law orders pursuant to Welfare and Institutions Code Section 362.4, the Special Advocate's appointment may be continued in the family law proceeding, in which case the Court order shall set forth the nature, extent and duration of the Advocate's duties in the family law proceeding.* (E.D. 1-1-01)

**18.9 - Right to Appear**

*A Special Advocate shall have the right to be present and be heard at all court hearings, and shall not be subject to exclusion by virtue of the fact that he or she may be called to testify at some point in the proceedings. An Advocate shall not be deemed to be a "party" as described in Title 3 of Part II of the Code of Civil Procedure. However, the Court at its discretion, shall have the authority to grant the Advocate amicus curiae status, which includes the right to appear with counsel.* (E.D. 1-1-01)

**18.10 - distribution of casa reports**

**(a)** *CASA reports shall be submitted to the Court at least (5) five court days prior to the hearing.*

**(b)** *CASA shall serve a copy of the report on the parties to the case, including but not limited to: County Counsel, attending Case Social Worker, Child's Attorney, Parents' Attorney, Child (via Foster Family Agency), ICWA Representative (if applicable) and Defacto Parents.*

**(c)** *CASA shall serve a copy of the report on the parties entitled to receive a copy of the report at least (2) two court days prior to the hearing.* (E.D. 1-1-02)

# BUTTE COUNTY LOCAL RULES

## ADMINISTRATIVE RULES

(Effective Date: 7-1-96)  
(Title A.D. 1-1-99)

### RULE 50 GENERAL RULES

#### 50.1 - COURT EXECUTIVE OFFICER AND CLERK OF THE COURT

A majority of the Judges may appoint a Court Executive Officer pursuant to Government Code (GC) §68114.6 who shall act as the Clerk Court. The term "Court" in this rule shall refer to the Superior Court of California, County of Butte.

(a) Pursuant to GC §68114.6, Courts hereby transfer from the Clerk of the Court to the Court Executive Officer all of the powers, duties and responsibilities of the Clerk of the Court which are related to, serve or impact the functions of those Courts. The power, duties and responsibilities transferred pursuant to this rule shall include all of those performed by the Clerk of the Court with respect to actions, proceedings and records, including but not limited to:

1. The acceptance, processing and filing of papers in connection with any action or proceeding before the Court, including but not limited to those relating to the Court's original jurisdiction, appellate jurisdiction and appeals from the Court; the maintenance and management of court records; the microfilming of court records and the keeping and disposition of papers, documents, files and exhibits in accordance with law.
2. The maintenance of indexes of all court files; the keeping of a register of actions or its alternate.
3. The issuance of process and notices, including, without limitation, summons, writs of execution and other writs; subpoenas to witnesses; probate notices; citations in probate, guardianship and other matters; the acceptance of service on parties; the entry of defaults; the transmission of transcripts on change of venue.
4. The attendance at each session of Court and upon the judges in chambers when required; the administration of oaths; the keeping of minutes and other records of the court.
5. The entry of orders, findings, judgments, and decrees; the acceptance for filing of confessions of judgment; the authentication of records; certification of abstracts of judgment; the keeping of a judgment book or its equivalent.

Rule 50.1 (Continued)

6. The collection, receipt, deposit and accounting of fees for filing, for preparing or certifying copies and for other fees; the receipt of jury fees, bonds, undertakings, fines, forfeitures and revenues; the keeping of money deposited in Court, including, but not limited to, funds received in connection with minors' compromises.
7. The maintenance of statistical financial records and the preparation of reports to the Judicial Council and other state and county offices as required by law or policy.
8. The preparation of the clerk's transcript on appeal and the transmission of the record and exhibits to the reviewing Court.
9. The receipt of wills of decedents.
10. The taking of bail and related matters as provided in the Penal Code.
11. The provision of calendar management, including the calendaring of cases and hearings and the maintenance of court calendars and schedules.
12. The printing and sale of court forms and rules of court; the procurement of supplies.
13. The keeping and affixing of the seal of the court to appropriate instruments.
14. The administrative functions related to the above, including, without limitation, hiring, training and supervision of personnel; accounting functions; mailing activities; and ordering and storing equipment and supplies.

**(b)** Pursuant to the authority contained in GC §68114.6, the Court hereby transfers to the Court Executive Officer the powers, duties and responsibilities of the Clerk of the Court with respect to the employment and supervision of personnel whose principal activities are to serve the Courts in providing the functions outlined above in subsection (a).

**(c)** Pursuant to the authority contained in CCP §195(a), the Court hereby appoints the Court Executive Officer to serve as Jury Commissioner.

**(d)** Pursuant to the authority contained in GC §68114.6, the Clerk of the Court is hereby relieved of any obligation imposed on her by law with respect to the above powers, duties and responsibilities, effective January 1, 1996.

(A.D. 1-1-99)

**50.2 - RESERVED**

**50.3 - JUDICIAL VACATION DAY DEFINED**

**Time away from the Court for more than one-half day for vacation purposes shall be deemed as a full day of vacation.**

(E.D. 1-1-02)

## **ABBREVIATIONS**

<b>AFDC</b>	.....	Aid for Families with Dependant Children
<b>ADR</b>	.....	Alternative Dispute Resolution
<b>CASA</b>	.....	Court Appointed Special Advocate
<b>CC</b>	.....	Civil Code
<b>CCP</b>	.....	Code of Civil Procedures
<b>CRC</b>	.....	California Rules of Court
<b>def.</b>	.....	defendant
<b>depo.</b>	.....	deposition
<b>exh.</b>	.....	exhibit
<b>FC</b>	.....	Family Code
<b>GC</b>	.....	Government Code
<b>H&amp;S</b>	.....	Health & Safety Code
<b>JC</b>	.....	Judicial Council
<b>LR</b>	.....	Local Rule
<b>OSC</b>	.....	Order To Show Cause
<b>OTSC</b>	.....	Order To Show Cause
<b>OST</b>	.....	Order Shortening Time
<b>PC</b>	.....	Penal Code
<b>PROB.</b>	.....	Probate Code
<b>PROGRAM</b>	.....	Delay Reduction Program
<b>pltf.</b>	.....	plaintiff
<b>SCQ</b>	.....	Status Conference Questionnaire
<b>TRO</b>	.....	Temporary Restraining Order
<b>UCCJA</b>	.....	Uniform Child Custody Jurisdiction Act
<b>W&amp;I</b>	.....	Welfare & Institutions Code
<b>§</b>	.....	section
<b>§ §</b>	.....	sections

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(E.D. = Effective Date)

(A.D. = Amended Date)

[Updated: 7-1-03]

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Superior Court of California, County of Butte Rules

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(RUL-17-JV.010)	CERTIFICATE OF COMPETENCY TO PRACTICE IN JUVENILE DEPENDENCY COURT	E.D. 1-1-02	MANDATORY

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<b>RULE 1 – GENERAL RULES</b> [Form follows Page 1-2]			
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(E.D. = Effective Date

(A.D. = Amended Date)

[Updated: 7-1-03]

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Superior Court of California, County of Butte Rules

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